

11/25 E-mailed Sue Potter.  
(wL)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT  
N.D. OF N.Y.

FILED

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NXIVM CORPORATION, Formerly Known as EXECUTIVE  
SUCCESS PROGRAMS, INC. and FIRST PRINCIPLES, INC.,

LAWRENCE K. BAERMAN, CLERK  
ALBANY

Plaintiffs,

**NOTICE OF MOTION  
FOR SUMMARY  
JUDGMENT**

-- against --

THE ROSS INSTITUTE, RICK ROSS a/k/a  
"RICKY ROSS", JOHN HOCHMAN and  
STEPHANIE FRANCO,

**Civil Action No. 03-CV-0976  
(TJM / DRH)**

Defendants.

NXIVM CORPORATION, f/k/a EXECUTIVE SUCCESS  
PROGRAMS, INC. and FIRST PRINCIPLES, INC.,

Plaintiffs,

**Civil Action No. 03-CV-1051  
(TJM / DRH)**

-- against --

THE ROSS INSTITUTE, RICK ROSS a/k/a  
"RICKY ROSS", and PAUL R. MARTIN, PH.D.,  
WELLSPRING RETREAT, INC. and STEPHANIE  
FRANCO,

Defendants.

MOTION BY:

Defendants The Ross Institute, Rick Ross a/k/a  
"Ricky Ross"; Paul R. Martin, PH.D. and  
Wellspring Retreat, Inc.

DATE, TIME and PLACE  
OF HEARING:

✓ @ 10:00 AM  
January 12, 2004, ✓ or as soon thereafter as  
counsel can be heard, at the United States  
District Court located at the U.S. Courthouse,  
445 Broadway, Albany, New York.

SUPPORTING PAPERS:

1. Affidavit of Thomas F. Gleason, sworn to the  
9<sup>th</sup> day of October, 2003, with exhibits attached;

2. Defendants Statement of Material Facts Not in Dispute Pursuant to Local Civil Rule 7.1(a)(3) dated October 9, 2003; and

3. Memorandum of Law.

**RELIEF REQUESTED:**

A. An order pursuant to Federal Rule of Civil Procedure:

(i) 56 for summary judgment dismissing the Complaints in their entirety.

B. For such other, further and different relief as the Court deems just and proper.

**ANSWERING AFFIDAVITS:**

Answering papers, if any, must be served in hand by October 30, 2003, unless otherwise agreed between the parties.

DATED: Albany, New York  
October 9, 2003



**THOMAS F. GLEASON, ESQ.**

Bar Roll No. 101791

**GLEASON, DUNN, WALSH & O'SHEA**  
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Rick Ross a/k/a "Ricky Ross", Paul R. Martin,  
PH.D. and Wellspring Retreat, Inc.  
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Los Angeles, CA 90010-27119

# GLEASON AFFIDAVIT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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NXIVM CORPORATION, Formerly Known as EXECUTIVE  
SUCCESS PROGRAMS, INC. and FIRST PRINCIPLES, INC.,

Plaintiffs,

**ATTORNEY'S AFFIDAVIT**

-- against --

THE ROSS INSTITUTE, RICK ROSS a/k/a  
"RICKY ROSS", JOHN HOCHMAN and  
STEPHANIE FRANCO,

**Civil Action No. 03-CV-0976  
(TJM / DRH)**

Defendants.

---

NXIVM CORPORATION, f/k/a EXECUTIVE SUCCESS  
PROGRAMS, INC. and FIRST PRINCIPLES, INC.,

Plaintiffs,

**Civil Action No. 03-CV-1051  
(TJM / DRH)**

-- against --

THE ROSS INSTITUTE, RICK ROSS a/k/a  
"RICKY ROSS", and PAUL R. MARTIN, PH.D.,  
WELLSPRING RETREAT, INC. and STEPHANIE  
FRANCO,

Defendants.

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STATE OF NEW YORK     )  
COUNTY OF ALBANY    ) ss:

**THOMAS F. GLEASON**, being duly sworn, deposes and says:

1. Your deponent is a member of the law firm Gleason, Dunn, Walsh & O'Shea, attorneys for Defendants The Ross Institute, Rick Ross a/k/a "Ricky Ross", Paul D. Martin, PH.D. and Wellspring Retreat, Inc. (hereinafter collectively the "Institute Defendants"), in

the above captioned actions, and as such is fully familiar with the facts and circumstances hereinafter set forth.

2. This affidavit is respectfully submitted in support the Institute Defendants' motion to dismiss the complaints pursuant to FRCP Rule 12(b)(1) and 12(b)(6) and for summary judgment pursuant to FRCP Rule 56.

3. The Complaints in these actions were filed on August 6, 2003 and August 22, 2003, respectively and the Defendants filed their Answer, with respect to 03-CV-0976 on September 2, 2003 and their Amended Answer in the consolidated actions on September 12, 2003. In the Complaint, the Plaintiffs' assert two causes of action, the first for a claimed copyright violation as a result of the Defendants Institute and Ross publishing information critical of the Plaintiffs' "executive success programs." The allegedly offending articles are attached as **Exhibits "H", "I" and "J"** to the Complaint (03-CV-1051).

4. The Plaintiffs' have also attached as **Exhibits "A" through "D"** of the Complaint in Civil Action No. 03-CV-1051, materials of the Plaintiffs' which Plaintiffs' claim are protected by the copyright laws, and which Plaintiffs' assert were improperly published by Defendants Institute and Ross.

5. It is respectfully submitted that a review of the publications by the Defendants Institute and Ross, concerning which the Plaintiffs make complaint, clearly are in the nature of criticism of Plaintiffs' material, and as such are protected from any claim of infringement under the doctrine of fair use. Defendants Institute and Ross claim in this action that the Plaintiffs' effort to prevent publication of materials critical of the Plaintiffs' program is a

blatant attempt to inhibit the free exchange of ideas and debate concerning the Plaintiffs' program.

6. Plaintiffs' supply no support for its claim that criticism of its program destroys the fair use of quoted portions of Plaintiffs' materials. It is submitted that, in fact such criticism is an essential aspect of the doctrine of fair use. Plaintiff does not assert a claim for defamation, and it is clear that no such claim would be viable.

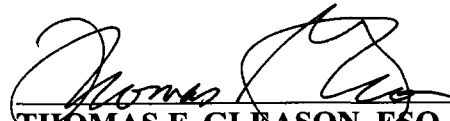
7. As noted by Religious Tech Center v. Lerma, 897 F. Supp. 260, 262-263 (EDVA 1995), in a case where there is a reasonable contention regarding the fair use of quoted material, such a presumption is inapplicable and there may be a strong interest in the publication of the secondary work.

8. The Plaintiffs have made no allegations that the Defendants Institute and Ross seek to perform an executive training program similar to that which the Plaintiffs' seek operate. The use of the quoted material clearly is for purposes of criticizing the Plaintiffs' program and as such is constitutionally protected free speech. Accordingly, for reasons stated in the accompanying Memorandum of Law, Summary Judgment pursuant to FRCP 56 should be granted in all respects, together with such other and further relief as to the Court may seem just an appropriate.

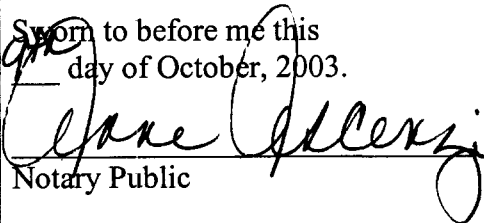
9. Attached hereto as **Exhibit "A"** is the Affidavit of Rick Ross dated September 3, 2003; and as **Exhibit "B"** hereto is the Affidavit of Rick Ross dated August 25, 2003.

10. Attached hereto as **Exhibit "C"** is the transcript of the Court Decision of the Hon. Thomas J. McAvoy dated September 8, 2003, and as **Exhibit "D"** hereto is the Order dated September 9, 2003.

**WHEREFORE**, your deponent respectfully requests that this Court enter an order dismissing the Complaints and granting summary judgment to Defendants, together with costs and disbursements of this motion, and for such other and further relief as to the Court may seem just and appropriate.

  
**THOMAS F. GLEASON, ESQ.**  
**Bar Roll No. 101791**

Sworn to before me this  
day of October, 2003.

  
Notary Public

**ANNE ASCENZI**  
Notary Public, State of New York  
Qualified in Albany County  
Reg. No. 4777770  
Commission Expires **6/30/06**



# **EXHIBIT**

## **A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

NXIVM CORPORATION, f/k/a  
EXECUTIVE SUCCESS PROGRAMS, INC.  
and FIRST PRINCIPLES, INC.,

Plaintiffs

v.

CIVIL ACTION NO. 03-CV-1051  
HON. THOMAS J. McAVOY, U.S.D.J.

THE ROSS INSTITUTE, RICK ROSS a/k/a  
"RICKY ROSS", PAUL R. MARTIN, PH.D. and  
STEPHANIE FRANCO,

Defendants.

**SECOND AFFIDAVIT OF RICK ROSS**

Now comes Rick Ross and after being duly sworn, deposes and says as follows:

1. Attached hereto as Exhibit A is a copy of my Affidavit as filed in NXIVM Corporation, et al v. The Ross Institute, No. 03-CV-976 (N.D.N.Y.). I reaffirm all of the averments in this Affidavit in their entirety.

2. The Complaint in the above action alleges, at paragraph 39., that "Upon information and belief, at least one defendant, Rick Ross, has a \$4,000,000 judgement [sic] against him (annexed [to the Complaint] as Exhibit F) which has not been satisfied and is insolvent, thus monetary damages will not provide an adequate remedy."

3. The allegation that there is a \$4,000,000 judgment against me which remains unsatisfied is false. As reported in an article published in the Phoenix New Times in December 1996, a copy of which is attached hereto as Exhibit B, the largest portion of the judgment, \$3,000,000 in favor of Jason Scott, was settled by the payment by me of \$5,000 to Mr. Scott,

along with my agreement to provide Mr. Scott with 200 hours of my professional services, free of charge.

4. Plaintiffs and their attorneys could easily have verified the foregoing facts through a minimal investigation. A copy of the above-referenced article, along with other articles and information concerning the underlying lawsuit, have been posted on the Ross Institute website and available for free to the general public for years. I caused the Ross Institute to post this adverse information concerning myself because I believe that the public has the right to know this information. I also believe that the public has the right to know adverse, unflattering and critical information and opinion concerning the plaintiffs and their organization.

Signed under the pains and penalties of perjury this 3rd day of September, 2003.



Rick Ross

Sworn to before me this

3rd day of September, 2003.



Notary Public

LINDA K. WEST  
Notary Public, State of New Jersey  
No. 2227253  
Qualified in Hudson County  
Commission Expires July 8, 2004



**SEE EXHIBIT "B" TO GLEASON AFFIDAVIT  
DATED OCTOBER 9, 2003  
ATTACHED HERETO**

# **EXHIBIT B**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT  
N.D. OF N.Y.  
**ORIGINAL FILED**

AUG 25 2003

LAWRENCE K. BAERMAN, CLERK  
ALBANY

NXIVM CORPORATION, f/k/a  
EXECUTIVE SUCCESS PROGRAMS, INC.  
and FIRST PRINCIPLES, INC.,

Plaintiffs

v.

CIVIL ACTION NO. 03-CV-976  
HON. THOMAS J. McAVOY,  
U.S.D.J.

THE ROSS INSTITUTE, RICK ROSS a/k/a  
"RICKY ROSS", JOHN HOCHMAN and  
STEPHANIE FRANCO,

Defendants.

**AFFIDAVIT OF RICK ROSS**

Now comes Rick Ross and after being duly sworn, deposes and says as follows:

1. I reside at 20 River Court Apt. 2211 Jersey City, New Jersey. I am the Executive Director of the Ross Institute, which is located at 113 Pavonia Ave. #323 Jersey City, New Jersey. Both the Ross Institute and I are defendants in the above-referenced action. I have personal knowledge of the facts that are set forth herein and I submit this affidavit in opposition to the application of plaintiffs NXIVM Corporation, formerly known as Executive Success Programs, Inc. and First Principles, Inc. (collectively "ESP") for temporary and preliminary injunctive relief

2. I have reviewed the papers submitted by Executive Success Program (ESP) now known as NXIVM including the affidavits of Nancy Salzman, Michael Sutton and Aaron Kassin. I have also reviewed the affidavit of defendant Stephanie Franco. The statements of Michael Sutton and Aaron Kassin contained misstatements regarding my

time with them and the purpose of that time. And the statements of Nancy Salzman grossly mischaracterize my work, business concerns and Web site.

3. In September of 2002 I was contacted by the Sutton family. Michael Sutton's parents were deeply concerned about their son's involvement with ESP. They asked me what I knew about the organization and I said that I had not heard of it. The Suttons requested that I research the group and later review with them my impressions of the organization and its programs.

4. I reviewed the ESP Web site with its program descriptions, philosophy and touted "technology." Their training seemed very similar if not identical to other controversial groups I have studied, such as EST, Scientology and Landmark Education.

5. I met with the Suttons to discuss my impressions. This meeting took place in October. We discussed the contents of the ESP Web site; its program descriptions and family concerns about Michael Sutton's future considering the growing influence ESP exerted his life. The family ultimately decided upon an intervention.

6. I am a consultant and intervention specialist regarding controversial and/or potentially unsafe groups, some of which have been called "cults." This has been the focus of my work for twenty years. Such interventions are an educational process, not therapy or counseling. It involves a professional presentation and dialog about a particular group and/or leader. This often includes a detailed discussion about the group's methods of recruitment, indoctrination, persuasion and retention techniques. The focus of such an intervention is to inform the subject. This effort not only includes the person involved in a group, but also their family and often others who are concerned. The purpose of such an intervention is to hopefully stimulate critical thinking and ultimately help the subject



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they had about their son's involvement with ESP. The Sutton's had no interest in ESP "protected materials," only the undue influence and subsequent control that Nancy Salzman, Keith Raniere and ESP exercised over their son's life.

10. During the intervention Nancy Salzman called Michael Sutton. One day I sat next to him as they conversed. Ms. Salzman suggested that it would be a good idea for ESP to be evaluated by well recognized "cult experts" and Michael Sutton subsequently requested me to provide a list of the "top ten" such experts I would suggest. I provided him with a list which included John Hochman, M.D., a forensic psychiatrist, and Paul Martin, Ph.D., a clinical psychologist.

11. When we parted in Florida Michael Sutton seemed interested in further discussion and investigation regarding the issues we discussed concerning ESP. We met again in New York and New Jersey for further discussions during December at his family home and at his office.

12. Stephanie Franco joined one meeting at the Sutton family home. She came to explain to Michael her own concerns about ESP, why she left the group and her fears for others still involved. At some point during this meeting, she advised us that she had a workbook or study guide from ESP. She later loaned this workbook to her brother Jeffrey. Jeffrey Sutton later sent me copies of the workbook.

13. The Sutton's were also very worried about their daughter Leslie and her husband Aaron Kassin, who were also involved with ESP.. They asked if I would come to their home again and accompany them to Aaron and Leslie's home for another family discussion. Aaron had been recruited by Michael Sutton to attend ESP programs and the

Sutton family felt the programs had had a negative and disturbing effect upon him as well.

14. On or about December 28, 2002, I met with the Suttons and we walked over to the Kassin residence, which is quite close to the Sutton home in Elderon, New Jersey. Neither the Sutton's nor I had any interest in Aaron giving us "protected information" about ESP. We only wanted to discuss the Suttons' concerns about how ESP had affected his life and their son Michael. The only attempt to "elicit information from [Aaron]" was requesting he respond to family concerns and frankly discuss what we had learned about ESP and Keith Raniere.

15. During this discussion I may have mentioned that I had reviewed ESP material, such as the organization's website, and the study guide I received from Stephanie, but I never asked Aaron to "provide [me] with confidential materials."

16. Until the filing of this lawsuit, neither Stephanie Franco nor anyone else ever mentioned the existence of any confidentiality agreement to me and I was not aware of any confidentiality agreement. I never received any information suggesting that ESP considered its workbook or other materials to be "trade secrets" until after this lawsuit was filed. In fact, as noted above, the substance of the ESP materials seemed to be similar if not identical to materials I have reviewed in connection with my study of other groups. After this lawsuit was filed I was informed that ESP alleged Stephanie Franco had somehow violated "confidentiality" regarding ESP and its property, and that it considered at least some of its materials to be trade secrets.

17. I never advised Aaron that I "intended to publish the ESP materials on

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[my] website." And we certainly didn't discuss confidentiality, trademark, copyright or trade secret issues. We spent our time discussing family concerns regarding Aaron's welfare.

18. The Sutton family sought further expert opinion. They retained John Hochman and Paul Martin to review ESP's programs, as described in ESP's website and study guide. Michael agreed that after these reports were completed there would be another meeting during which Michael would discuss the reports with the doctors. These meetings were planned to take place by phone or in person at Michael's office in Manhattan. However, Michael Sutton did not follow through and never met with the doctors. There were no further meetings or discussion and the case was closed.

19. Some months later, due to my continued concern about ESP and its potential to harm other families, I decided to create an archive page about the group and Keith Raniere within the Ross Institute database.

20. The Ross Institute (TRI) is a nonprofit, tax-exempt organization devoted to public education and research. TRI's mission is to study cults, destructive cults, controversial groups and movements and to provide information easily accessible to the public through the Internet for educational purposes. TRI's database includes news stories, research papers, reports, court documents, book excerpts, personal testimonies and hundreds of links to additional relevant resources. TRI provides free, public access to its database through its Internet websites, [www.rickross.com](http://www.rickross.com) and [www.cultnews.com](http://www.cultnews.com).

21. The ESP archive page represents a very small fraction of TRI's database, with only a few articles and reports, as well as a link to ESP's website. The TRI database

includes more than 250 archive pages and most are larger than the ESP/NXIVM page.

22. There is a disclaimer posted and/or linked prominently throughout the TRI Web site and on the ESP page specifically that states:

**The information within the Ross Institute archives has been collected to offer the public a resource concerning groups called "cults," controversial organizations and movements.**

**However, the mention and/or inclusion of a group or leader within this archive does not define that group as a "cult" and/or an individual mentioned as either destructive and/or harmful. Instead, such inclusion simply reflects that archived articles and/or research is available about a group or person that has generated some interest and/or controversy.**

**All the information archived must be evaluated critically, through a process of independent and individual judgment. Please note that there are links often prominently posted at the top of each individual page to a group or movement's own official website, which reflect their views. It is important to see what they have to say.**

**Warning -- All META tags, page titles, keywords and other content descriptions used throughout this website are only intended to assist search engines for research and locating purposes. This in no way, shape or form is intended to mislead anyone by implying any official representation and/or relationship between this website and the**

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**owners of any trademarks, service marks and/or copyrights, which may contain the same keywords and/or titles.**

**The Ross Institute, its Advisory Board and/or Rick Ross do not necessarily endorse or support any of the views expressed within the documents, articles, reports and testimonies archived within this website, with the exception of those specifically so attributed.**

**The Ross Institute, its Advisory Board and/or Rick Ross do not necessarily endorse or support any of the views expressed within linked websites listed at the Links page of this website. They are provided only for the convenience of researchers and those concerned.**

**Books listed on the Books page of this website and the views they express are not specifically endorsed by The Ross Institute, its Advisory Board and/or Rick Ross. Readers must exercise their own judgment in choosing and/or reviewing such material. And then critically evaluate any views or opinions the authors may express. Again, some may find this material controversial. The Ross Institute has archived this information for the convenience of researchers and those concerned.**

**Any minor child should consult their custodial parent(s) before reading the information provided within this website.**

**The news items contained within this web site are provided without profit by The Ross Institute and are intended to be available to**

**anyone interested in the topics included, for educational purposes only.**

**Any publisher, Webmaster or news service (i.e., official and legal holder of copyright) that objects to their material being included in this archive may request that it be removed and/or that future material be excluded. An official written request made by the copyright holder and/or their legal representative will be honored."**

23. The ESP archive page includes links to articles referencing the plaintiffs, Keith Raniere, and a prior business venture of Mr. Raniere, as well as the previously mentioned reports by doctors John Hochman and Paul Martin, copies of which are attached to this Affidavit as Exhibits A, B and C. All of the reports include quotations and references to various ESP materials, including materials from ESP's website and the workbook. Both of these well respected and widely recognized experts made their reports available through TRI's website in the public interest. Neither I, nor TRI, nor the doctors, received any "commercial benefit" through making these reports publicly available through TRI's database. None of us are in competition with ESP.

24. In recent news stories, such as the Albany Times-Union or MSNBC, I have responded factually about complaints received about ESP/NXIVM from families and former participants called "Espians." I have also expressed genuine concern about the potential risk these programs seem to pose. One complaint I received involved a participant having a "breakdown" that required hospitalization. I understand that the Keith Raniere, Nancy Salzman and their associates may not appreciate public discussion

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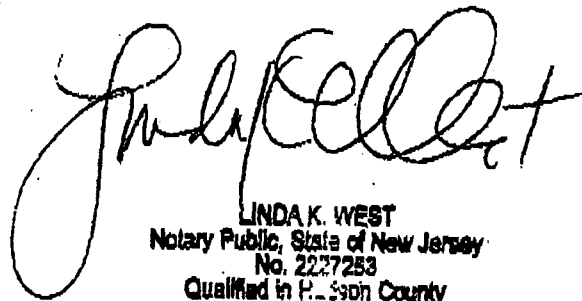
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and/or criticism about their business practices. But I believe that I have the right and responsibility to express my opinions and report concerns about their programs.

Signed under the pains and penalties of perjury this 25<sup>th</sup> day of August, 2003.

  
Rick Ross



LINDA K. WEST  
Notary Public, State of New Jersey  
No. 2237253  
Qualified in Hudson County  
Commission Expires July 8, 2004

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# A Forensic Psychiatrist Evaluates ESP

February 2003

By John Hochman, M.D.

Assistant Clinical Professor of Psychiatry and Biobehavioral Sciences

University of California Los Angeles

## Introduction

I have reviewed a manual for a 16 day, ten hours per day; large group awareness training called "Executive Success Programs," which also calls itself "ESP."

I address the following questions:

1. Is mind control involved in this training?
2. Is the course curriculum "cult-like" in some way?
3. What negative effects or consequences might such a program produce?

I also viewed the ESP website. The website had a limited amount of material, some of which was helpful to me in forming my opinions.

There is much in the content and format of ESP that is not at all original, and is quite similar to aspects of a number of cults and cult-like organizations with which I am familiar.

## Mind Control and the ESP Intensive

Mind control represents indoctrination without informed consent. It relies on calculated strategies to mislead and to misinform. It particularly relies on emotional manipulation.

**Long hours:** A group using mind control will attempt to maximize the influence of group leaders on participants, at the expense of any ongoing influence of friends and relatives. One way to quickly effect this change is to maximize the amount of time that group participants are with group leaders. ESP Intensive participants are signing up for sixteen ten-hour days, which will either be experienced successively, or in five-day segments. Although three hours a day are allotted for lunch and dinner breaks as days go on.

Of further concern, the manual states in Italics, "*We find our students don't want to leave at the end of the day!*" Since participants have been experiencing a day scheduled to start at 8 AM and end at 10 PM, under usual circumstances, most participants would be tired and eager to go to see friends and family, and get a night's rest to prepare for another long day starting at 8 AM. This suggests to me that emotional appeals or other manipulation may occur to get everyone to stay around even longer.

**Limitations in ability to get feedback from friends and family:** Participants are told to promise not to tell non-participants of what they learn in the Intensive, as well as its methods.

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They will be unable to respond to routine questions they would be expected to receive, such as, "What did you learn today?" or "What's going on at the seminar you are attending?" This serves as to distance the participant from his ongoing relationships. It also serves to prevent the participant from getting any feedback about what he is experiencing from people in the outside world, some of whom care about the participant very much.

**Secrecy:** Participants are told to promise not to share with non-participants their recollection of content or methods of the Intensive. Participants are mislead into feeling guilty for being a "promise breaker" if they talk about their personal experiences over the course of many hours. This effects a partial shutdown of communication with friends and family, and serves to strengthen a common bond with the other secret-sharers.

**Effect of idiosyncratic vocabulary on communication:** Further communication shutdown with friends and family occurs as numerous English words are redefined to fit the peculiar meanings of group leaders. The result is communications that are near incomprehensible to outsiders (e.g.: The mission of the human team is to build value and to uphold each other). This serves to embed the participant into the group and isolate him from outsiders.

**Pre-emptive neutralization of criticism of the group by participants and their family/friends early on:** What the group calls "shifter strategies" is given much attention in the Intensive. It is clearly taught that these represent undesirable behaviors that should be met with disapproval by other group members. Then end result is that if a participant criticizes things that the group does, he is a "suppressive." Since it is likely that group outsiders will perceive aspects of the group's activities as "manipulative" or as a "cult," these two words are used as the sole examples of "abstract terms" that a Shifter will use. The clear purpose of this didactic exercise by the group is to encourage participants to ignore friends and relatives who are likely to criticize the group using these exact words. Finally, the Intensive attempts to impart a sense of superiority to participants simply for learning Esplan theory ("Esplans understand the model, but non-Esplans do not"); such a sense of superiority would encourage participants to discourage criticism of their activity from others.

**Paramilitary rituals and regalia:** Paramilitary structure enhances the ability of leaders to control participants through a "chain of command." [Keith Raniere] the leader's title as "Vanguard" is a word with military origins, and participants are routinely expected to "thank" Vanguard at the end of each and every session. One's rank in the group is constantly visible by scarf color and number of stripes on the scarf, and this is reinforced by a ritual two-handed handshake where the higher rank person's hands go on top. Advancement includes ability to be a "coach," which appears to be a monitor, (sometimes-daily monitor), for members lower in rank. Clearly a submissive relationship of sorts to one's superior in rank is promoted.

**Required daily contact with superiors is framed as personal growth:** Since the paramilitary regalia makes it clear who is superior to who in rank, ongoing participants are required to make a daily brief phone call to "check-in" with a "coach." Promotion to a higher level scarf cannot occur without approval from one's coach, who becomes part of the group's eyes-and-ears to see if participants are, for example, becoming suppressive. Moreover, promotion in this group is laced over with the title of showing "persistence" to a "long-term commitment." Since daily checking in like this is an unnatural thing to do for most grown-ups, any discomfort will most certainly be met with the confrontation that they "need to be able to keep a long-term commitment."

## Cult-Like Elements of the ESP Intensive

**Pretensions to Science:** In an attempt to instant credibility in this era of technology triumphs, this group describes its activities as "technology" and "science." (Other groups have done the same in the past). Yet there is no evidence of any validation using scientific methods of anything the group does. The group does make use of "pop psychology" theories, tips for greater efficiency, gimmicks to impress others, and other notions that have already been widely publicized in

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seminars and books over the decades - so this is hardly technology that the group can claim credit for. The group also presents gross oversimplifications of psychological theory and of the human condition (e.g.: "All anger is created as a result of a conflict in values.") The group's leader may have coined some maxims with a ring of truth, but again, this not science.

**Unsubstantiated extravagant claims:** As "proof" of the value of their "technology," the group claims unprecedented results training over 400,000 individuals. Yet their website only comes up with a few dozen testimonials. That's about one testimonial for every 10,000 participants.

**Self-Serving Morality:** Whether cult-like organizations claim to be religions, philosophies, etc., each one has it's own self-created moral system, which is typically self-serving. The emphasis here is on how violating the pledge involves the participant in hurting himself by telling others anything about what he has been doing and learning for hours on end. The participant is counseled that to tell others is "compromising [his] inner honesty and integrity." There is no mention of how this secrecy essentially benefits the group leaders, who are shielded from criticism from outsiders when no one knows exactly what they are doing.

**Messianic pretensions without discussing the obvious profit motive:** "The mission of ESP is to develop an integrated ethical framework of human experience to stop the destruction of value in the world and move humanity forward to remove fear-based activities from the world." ESP is presented as a means of saving the world from "hunger, theft, dishonesty, envy and insecurity." After stating this, participants are urged to "pledge" to enroll people in ESP. Good intentions are praise-worthy, but only to a point. Prior to the world being saved, the only guaranteed result of recruitment and continued seminar enrollment is up-front revenue generation. The fees are high, and speak for themselves. Members are encouraged to advance in "rank," which requires, among other things, more courses, which means more fees for ESP.

**Self-coronation of leaders:** Participants are instructed to address the founder of ESP as "Vanguard." The manual I reviewed implies he is the source of all the "technology" that the group has, since no one else is mentioned. There appears to be no dissenting views, and his philosophies are often presented in the third person plural "We believe." The ESP website suggests there is now a queen bee of sorts, as a Ms. Salzman, who was a Senior Proctor in this manual, as being upgraded to be the group's sole "Prefect." All of this is soft peddled to participants as analogous to calling your dentist (who finished a universally recognized course of study) by the title "doctor."

**Success in the Executive Success Program is about becoming a more thorough Esplan and not an Executive:** Although the program seems to promote skills so that participants could become executives if they wished, the thrust of the program is clearly to get participants to spend continuing hours taking ESP courses, signing up friends and family to attend seminars, gaining scarf-status in the Esplan world, adopting Esplan meanings to English words, etc. All of these achievements are essentially irrelevant to goings on in the "real world." Calling friends and relatives to set up appointments to recruit them into ESP is presented to participants as the way to practice getting "a real edge in relationships" and "impressing a special person."

## Possible negative effects of the ESP Intensive

The ESP Intensive appears to be a gateway that encourages participants to attend further training sessions or seminars, and get friends and family to do the same. In a general sense, the goal is integration of individuals into a subculture - however, a particular kind of subculture. It is a kingdom of sorts, ruled by a Vanguard, who writes his own dictionary of the English language, has his own moral code, and the ability to generate taxes on subjects by having them participate in his seminars. It is a kingdom with no physical borders, but with psychological borders - influencing how his subjects spend their time, socialize, and think. Increasing involvement serves to increasingly distance participants from their relationships in a manner that is slow and subtle, and thus not at all obvious to them.

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# Robert Jay Lifton's eight criteria of thought reform as applied to the Executive Success Programs

February 12, 2003

By Paul Martin, Ph.D.

Director of Wellspring Retreat

Note: Wellspring Retreat and Resource Center is a licensed residential treatment facility that provides a program of counseling and instruction to victims of cultic abuse, religious abuse and/or thought reform.

## 1. Milieu Control

Control of communication within the group environment resulting in a significant degree of isolation from the surrounding society. Includes other techniques to restrict members' contact with outside world and to be able to make critical, rational judgments about information: overwork, busy-ness, multiple lengthy meetings, etc. Lifton: "The most basic feature of the thought reform environment, the psychological current upon which all else depends, is the control of human communication. [This includes] not only the individual's communication with the outside..., but also...his communication with himself... [T]hought reform participants may be in doubt as to who is telling what to whom, but the fact that extensive information about everyone is being conveyed to the authorities is always known... Having experienced the impact of what they consider to be an ultimate truth..., they consider it their duty to create an environment containing no more and no less than this 'truth.' [The group member] is deprived of the combination of external information and inner reflection which anyone requires to test the realities of his environment and to maintain a measure of identity separate from it..."

### Topics

1. Milieu Control
2. Mystical Manipulation
3. Demand for Purity
4. The Cult of Confession
5. The "Sacred Science"
6. Loading the Language
7. Doctrine Over Person
8. Dispensing of Existence

"Phone tree - Each new student will be assigned a Coach (a person of rank yellow or higher). The Coach must not be the person who introduced the student to ESP. Each student will call the Coach, without fail, on a schedule that is to the mutual benefit of the student and the Coach."

Rules and Regulations

12/2000 page 4

"All materials and information relating to ESP are to be kept in strict confidence. The ESP information and materials are leased to the student for personal use only. They are not to be shared, taught or in any way transmitted to anyone else for any purpose that is not approved by ESP. Anyone needing or desiring this information or materials must become a member of ESP."

Rules and Regulations

12/2000 page 4

"I will not speak of them, or in any way give others knowledge of them, outside ESP. Part of the condition of being accepted into ESP is to keep all its information confidential."

12 Point Mission Statement

"Arranging for Coaching Support:

It is your responsibility to set a time with your coach on a daily basis for check-in. The following



rules apply:

a) Contacting. Students must speak to contact either by phone or in person daily. This is known as a contact session and is done at a specified time (can be a time range). This time should be written on the graph. Note: Messages left on answering machines DO NOT COUNT!

b) Exceptions. If necessary, the time may vary or days may be skipped only if it is arranged and approved by the contact during the previous day's contact session.

c) Content. During contact session, student relays the progress of the persistence training and their opinions about it.

Note: This call should not take more than 3 minutes."

Persistence

3/2001 page 1

"Concepts presented:

- 1) Difference between Faith and Trust
- 2) Everything we do is a matter of trust
- 3) All giving is a form of trust
- 4) Money is the element that allows trust to exist in the world
- 5) What gives money its value?
- 6) What it means if people believe that money is the root of all evil
- 7) Stages of dependence, independence and interdependence
- 8) Having money brings out the true nature of people"

Money

7/2001 page 2

## 2. Mystical Manipulation

The claim of divine authority or spiritual advancement that allows the leader to reinterpret events as he or she wishes, or make prophecies or pronouncements at will, all for the purpose of controlling group members. Lifton: "The inevitable next step after milieu control is extensive personal manipulation... Initiated from above, it seeks to provoke specific patterns of behavior and emotion in such a way that these will appear to have arisen spontaneously from within the environment... Ideological totalists... are impelled by a special kind of mystique which not only justifies such manipulations, but makes them mandatory... They are the agents 'chosen' (by history, by God, or by some other supernatural force) to carry out the 'mystical imperative,' the pursuit of which must supersede all considerations of decency or of immediate human welfare. Similarly, any thought or action which questions the higher purpose is considered to be stimulated by a lower purpose, to be backward, selfish, and petty in the face of the great overriding mission... At the level of the individual person, the psychological responses to this manipulative approach revolve about the basic polarity of trust and mistrust. One is asked to accept these manipulations on a basis of trust (or faith)... When trust gives way to mistrust... the higher purpose cannot serve as adequate emotional sustenance. The individual then responds to the manipulations through developing... the psychology of the pawn. Feeling himself unable to escape from forces more powerful than himself, he subordinates everything to adapting himself to them. He becomes sensitive to all kinds of cues, expert at anticipating environmental pressures, and skillful in riding them in such a way that his psychological energies merge with the tide rather than turn painfully against himself. This requires that he participate actively in the manipulation of others, as well as in the endless round of betrayals and self-betrayals which are required. But whatever his response... he has been deprived of the opportunity to exercise his capacities for self-expression and independent action."

[Please see examples under "Sacred Science." In addition, the idea of the white sash has to not be a suppressive person implies the active manipulation of others - the reporting on others - that they must be loyal to the cause of ESP.]

## 3. Demand for Purity

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The world is viewed as black and white and group members are constantly exhorted to strive for perfection. Consequently, guilt and shame are common and powerful control devices. Lifton: "In the thought reform milieu, as in all situations of ideological totalitarianism, the experiential world is sharply divided into the pure and the impure, into the absolutely good and the absolutely evil. The good and the pure are of course those ideas, feelings, and actions which are consistent with the totalist ideology and policy; anything else is apt to be relegated to the bad and the impure... The philosophical assumption underlying this demand is that absolute purity... is attainable... [B]y defining and manipulating the criteria of purity, and then by conducting an all-out war upon impurity, the ideological totalists create a narrow world of guilt and shame. This is perpetuated by an ethos of continuous reform, a demand that one strive permanently and painfully for something which not only does not exist but is in fact alien to the human condition... Each person is made vulnerable through his profound inner sensitivities to his own limitations and to his unfulfilled potential... [i.e.,] his existential guilt... The individual thus comes to apply the same totalist polarization of good and evil to his judgments of his own character... He must also look upon his impurities as originating from outside influences... [O]nce an individual person has experienced the totalist polarization of good and evil, he has great difficulty in regaining a more balanced inner sensitivity to the complexities of human morality..."

"I pledge to purge myself of all parasite and envy-based habits and replace them with the habits of effort and interdependence."

12 Point Mission Statement

"It is believed that how something is said is more important in the transmission of an idea than in the actual words used. In fact, a study conducted by Robert Birdwistle at the University of Pennsylvania stated that 93% of all communication is non-verbal. Enthusiastic people are better able to communicate and even sell their ideas with ease. They are more successful. The ability to access and utilize an excited state, at will, is a skill that can greatly simplify the road to success. When you have mastered this module, you will have the magic button."

Building an Excited State

3/2001 page 1

"Homework:

Lifeline of tribute: Make a list of all of your positive and negative traits in your journal. Go through your list and do the tribute process on all of your traits giving tribute to those people and traits that make you who you are.

Practice giving tribute whenever you're in a position to do so. Think of 3 examples in your life where you could give tribute. How can you remind yourself to appreciate all the gifts you have as a result of the work of others on a daily basis?"

The Fifth Integration

"Rules and Rituals

1. Sashes and Scarves
2. Promotion
3. Stripes
4. Pictures of founders
5. Shoes
6. Explanation of Bowing
7. Stand when high rank enters
8. Explanation of Recitation of Mission - the repetition of this statement brings even deeper meaning to the purpose of ESP.
9. Phone tree
10. Confidentiality and Materials
11. Attire - Standard business attire is required during all ESP sessions [missing page]
18. Handshakes
19. ESP Handshake



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**20. End of session handshake line-up"**

**Rules and Rituals**

**12/2000 pages 2, 3, 4, 6**

**"All materials and information relating to ESP are to be kept in strict confidence. Students are bound to this as a condition of becoming a member of ESP."**

**Rules and Rituals**

**12/2000 page 4**

**"It is important that students take pride in their appearance and become accustomed (if they are not already) to wearing standard business attire."**

**Rules and Rituals**

**12/2000 page 4**

**"Outside Practice: Be sure to shake hands with everyone you meet. Pay particular attention to your dominant foot and notice how it feels."**

**Rules and Rituals**

**12/2000 page 8**

**"Create a chart of all of the activities you do in a week and rate them from 0% (lowest intensity) - 100% (full intensity). It is helpful to break down your levels in divisions of 5%. Once you become aware of your average intensity levels, you can begin to increase or decrease them depending on your goal."**

**To practice: Do one activity a day like your life depends on it, even if it's only for a few seconds.**

**Finding the switch: Allowing yourself to let go of control and move into fight or flight requires turning off the control switch that we usually utilize in everyday life. This is very different, as it requires a shift into another type of brain function, a lower more primitive functioning. It is usually necessary to practice finding the switch for several days to develop the ability to use it on demand."**

**Intensity**

**12/2000 page 3**

**"Contacting. Students must speak to contact either by phone or in person daily. This is known as a contact session and is done at a specified time (can be a time range). This time should be written on the graph. Note: Messages left on answering machines DO NOT COUNT!"**

**Persistence**

**5/2001 page 1**

**"Make a list of 8 of your personal values. Be sure to ask the question again and again until you have a list of at least 8 answers. It is important for you to ask yourself this question several times because many times our most important values are not immediately obvious to us."**

**Work and Value**

**5/2001 page 2**

**"Skills/Concepts Presented:**

- 1. Definitions**
- 2. Listing and defining my personal values**
- 3. Difference between a right and a privilege**
- 4. What makes human beings different than animals?**
- 5. What is a slave?**
- 6. Intellectual contribution vs. physical contribution**
- 7. What is valuable?**
- 8. What makes something more or less valuable?**
- 9. Virtual work**

10. What is work?

11. Why are we here, mankind's work?"

Work and Value

5/2001 page 4

"Completing the worksheet is essential in converting perceived needs and desires into preferences. This process will free you from addictive desires and give you the ability to be more consistent."

Honesty and Disclosure

6/2001 page 2

#### 4. The Cult of Confession

Serious (and often not so serious) sins, as defined by the group, are to be confessed, either privately to a personal monitor or publicly to the group at large. Lifton: "Confession is carried beyond its ordinary religious, legal, and therapeutic expressions to the point of becoming a cult in itself. There is the demand that one confess to crimes one has not committed, to sinfulness that is artificially induced, in the name of a cure that is arbitrarily imposed. Such demands are made possible not only by the ubiquitous human tendencies toward guilt and shame but also by the need to give expression to these tendencies. In totalist hands, confession becomes a means of exploiting, rather than offering solace for, these vulnerabilities... The assumption underlying total exposure... is the environment's claim to total ownership of each individual self within it... [T]he cult of confession makes it virtually impossible to attain a reasonable balance between worth and humility..."

"Upon completion of the Mission Statement, all recite, 'Thank you Vanguard' as tribute to its author."

Rules and Rituals

12/2000 page 4

"Phone Tree - Each student will call his or her Coach at least twice a week. Students involved in the more advanced aspects of ESP will speak to their Coaches at least once a day."

Rules and Rituals

12/2000 page 4

"When working with individuals there are 4 projective questions to include in your Exploration of Meaning:

1. Blow their cover! - Invitations to project and reveal self:

- a) What's a person like when they're (x)?
- b) Who do you know who is (x), describe them...
- c) Think of an incident when someone was (x), what were they like?
- d) Tell me of a time when you (someone) were/was (x)? This also gets more meaning!

2. Project out the details! - Getting more data:

- a) How do you know when they're (x)?
- b) Imitate someone who is (x)...
- c) Teach me how to be (x)...
- d) What would you need to be like/have to be to be the projected person?
- e) How do you think they feel?
- f) How would you/they feel in the future/past state if you/they were (x)?

3. Finding the direct projection! - This question elicits their values, to get it ask yourself, 'Why would they go there now?'

- a) Why is that important to you/them?
- b) What would happen (it be like) if that wasn't/didn't happen? (was no x)
- c) How would your/their life change if you/they had (x)?
- d) How would the past have been different if you/they had (x)?

4. Get the Inner Deficiency! This question gives you a direct answer to the inner deficiency:

- a) What do you/they get out of it?
- b) What would happen if you/they didn't (x)?"

*Projective Questions for Facilitators*

"Find an example in your life when you copied and did not give tribute. Apologize out loud for the group to the person who you copied from and verbalize the benefit you received from copying."  
The Fifth Integration

"Have you ever considered why people have the need to blame others, justify or simply be right? Have you ever found yourself needing to prove to another individual that you were justified in your actions? What is this behavior about and why do we expend so much energy on these stories? How do blame and responsibility affect each other? This practice session will answer these questions and give you a whole new understanding of the state of responsibility."

Blame and Responsibility

3/2001 page 1

"Personal values are expressed in abstract concepts that have a different meaning to everybody. Some examples of values would be concepts like success, satisfaction, achievement, family, education, etc. Each person has a different perception of the concept of 'success.' Defining these terms helps us understand ourselves better.

Make a list of 8 of your personal values. This is done by asking yourself one of the following questions:

- 1) 'Why is (x) important to me (job, career, or relationship, personal or professional development or achievement)?'
- 2) 'What's important in my work, relationship, career, personal or professional development, etc., what must be there?' 'What is important to me about succeeding?'

Work and Value

5/2001 page 2

"Is it possible for us to have total honesty with others? Is full disclosure a good thing or a bad thing? How do we stay in integrity with others and ourselves so that we can build sound relationships personally and professionally? How do our needs and desires interfere with our ability to have what we really want in life? This module will help you answer these questions and change the way you relate to others in surprisingly positive ways."

Honesty and Disclosure

6/2001 page 1

"Homework: Find someone whom you trust and want to be close to. Get agreement and start by disclosing the things you discover about your filters and values. Have your partner do the same thing. This will help you begin to learn about each other's filters and values, creating the basis for very special relationships. Remember: Knowing our filters helps us to be consistent in our behavior patterns."

Honesty and Disclosure

6/2001 page 1

"A tribute to the Negative Habit:

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Each student to tell the group:

- 1) The benefit of this habit to their survival. The student should feel free to use a real life example.
- 2) The drawbacks of this habit
- 3) A positive habit that gives the same benefits without the drawbacks
- 4) A thank-you to the habit for the benefit it has given and a pledge to now replace this habit with the new up-dated beneficial habit through ESP and other endeavors."

Tribute - the 5th Integration

7/2001 page 5

"Are you aware of examples when you did not give tribute (stolen) in the past so that you will be more conscious in the future?"

Tribute - the 5th Integration

7/2001 page 6

## 5. The "Sacred Science"

The doctrine of the group is considered the ultimate Truth, beyond all questioning or disputing. The leader of the group is likewise above criticism as the spokesperson for God on earth. Lifton: "The totalist milieu contains an aura of sacredness around its basic dogma, holding it out as an ultimate moral vision for the ordering of human existence. This sacredness is evident in the prohibition (whether or not explicit) against the questioning of basic assumptions, and in the reverence which is demanded for the originators of the Word, the present bearers of the Word, and the Word itself. While thus transcending ordinary concerns of logic, however, the milieu at the same time makes an exaggerated claim of airtight logic, of absolute 'scientific' precision. Thus the ultimate moral vision becomes an ultimate science; and the man who dares to criticize it, or to harbor even unspoken alternative ideas, becomes not only immoral and irreverent, but also 'unscientific.' ...The assumption here is not so much that man can be God, but that man's ideas can be God... At the level of the individual, the totalist sacred science can offer much comfort and security. Its appeal lies in its seeming unification of the mystical and the logical modes of existence... For within the framework of the sacred science, there is room for both careful step-by-step syllogism, and seeping, non-rational 'insights.'... [S]o strong a hold can the sacred science achieve over his mental processes that if one begins to feel himself attracted to ideas which either contradict or ignore it, he may become guilty and afraid. His quest for knowledge is consequently hampered..."

"Handshaking is a sign of respect and affords us an opportunity to make direct physical contact with others. We believe that many of society's problems have developed because people have come to view each other as objects rather than human beings. The handshake is a way to greet others in every professional and personal context and is a sign of respect in ESP. Here in ESP, we use a two handed handshake. This conveys warmth and a sense of community. Placement of the left hand denotes rank. Individuals of higher rank place their left hand on the top. Individuals of the same rank shake vertically. Lower rank places the left hand on the bottom.

Purpose: To introduce students to the rules and rituals so that they will develop a deep appreciation and understanding of ESP.

### Definitions:

Crux of the hand is the portion of the hand between the thumb and forefinger, where they form a right angle. Wrist cock refers to the angle of the wrist, which can be used to gain control of the handshake. It is important for control to cock the wrist slightly down as you move into the handshake. Positioning of the feet determines dominance. Stepping into the handshake with the right foot creates a more dominant position, expressing strength for the hand-shaker. Stepping into the handshake with the left foot, will be perceived by both people as a more passive expression. The middle and ring fingers are used to gain control of the handshake."

Rules and Rituals - Segment 1 Handshaking

12/2000 page 1

"Sashes or Scarves - Students are introduced to the school and presented with sashes at their first official practice session, after Rules and Rituals. Each student shall wear an official ESP neck sash or scarf."

Rules and Rituals  
12/2000 page 2

"The ESP information and materials are leased to the student for personal use only. They are not to be shared, taught or in any way transmitted to anyone else for any purpose that is not approved by ESP."

Rules and Rituals  
12/2000 page 4

"Since most adults have been using parasite strategies all of their lives successfully, they may see no reason to change them now."

Parasite/Producer III - Practice  
12/2000 page 1

"Student Notes:

What is the mission of our school? How does understanding ESP's integrated matrix help us determine destructive patterns of human behavior and give us clues as to what is to come? We are now at the highest level of technological advancement in human history. The lifestyle current technology affords us has never existed before on the planet. Human civilization has had rises and falls for centuries; yet it is our belief humanity cannot survive another fall. All members of the human team must understand the historical reasons behind this tendency so we can change it and survive. We believe this is the ultimate cause because it means our existence and all other causes and our existence depend on this knowledge. The mission of ESP is to develop an integrated ethical framework of human experience to stop the destruction of value in the world and move humanity forward. This practice session explains ESP's mission and gives students a clear knowledge of how and why we need to act to change historical trends."

Mission  
3/2001 page 1

"It is one of ESP's goals to remove fear-based activities from the world. When people act from an ethical foundation, they are not afraid of the consequences of their actions."

Mission - Important Points  
3/2001 page 1

"ESP's hypothesis: Business and entrepreneurial spirit were human inventions and noble achievements but to shifters the very thing that made them exceptional hurt them in their gut. Because shifters cheat they win any game they play. Their butts [guts?- ed.] work like Geiger counters bringing them to the noblest pursuits, in this case business. Because they cheat, they climb to the top of the game and destroy it."

Mission - Important Points  
3/2001 page 1

"In the field of psychology the phrase, 'Perception is projection' is commonly used, but until now there has never been a concise explanation of how this complex process works."

The Face of the Universe - Projection  
3/2001

"Vanguard has provided us with something that no other model could. In this practice you gain a full understanding of what self-esteem is, how people inadvertently lower it and how to raise your own self-esteem and the self-esteem of others."

Self-Esteem  
3/2001 page 1



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"Ethics are well formed consistent postulates by which we live. An ethics is an internal guide, something that we have personally derived from our experience and is personal to us. Sometimes ethics are rules that we have internalized. Example: Thou shall not kill."

Crime and Punishment

3/2001 page 1

"What we all need is to wipe the slate clean and start to build the inner knowledge of our world from scratch. This should be done privately, without coercion, pressure or unrealistic expectations. How is this possible in a world where our commitments are demanded daily? This module shows you how so that you may possess an untarnished, fully powerful way of causing your desires to become reality through commitment and persistence."

Persistence

5/2001 page 1

"This practice session will give you a clear definition of work, an appreciation of civilization and what it has given us, humankind's purpose, and our own value in the world."

Work and Value

5/2001 page 1

"All of us are born parasitic or dependent on others for our survival. The hope is that as we grow we will learn effort strategies, which will enable us to become independent. Some people never make this transition and most people only make it partially. It is impossible to grow up without utilizing any parasite strategies. Unfortunately, all inappropriate taking lowers our self-esteem. In order to raise our self-esteem, we must rid ourselves of as many parasite strategies as possible. Once taught, most people can recognize them easily. To become successful it is necessary to notice these patterns in ourselves and make a conscious effort to change them."

Parasite/Producer Module II - Strategies

7/2001 page 1

"As you retake the practice sessions, the demonstration of your understanding of concepts will greatly benefit the class."

Tribute - the 5th Integration

7/2001 page 6

## 6. Loading the Language

The group develops a jargon in many ways unique to itself, often not understandable to outsiders. This jargon consists of numerous words and phrases which the members understand (or think they do), but which really act to dull one's ability to engage in critical thinking. Lifton: "The language of the totalist environment is characterized by the thought-terminating cliché. The most far-reaching and complex of human problems are compressed into brief, highly reductive, definitive-sounding phrases, easily memorized and easily expressed. These become the start and finish of any ideological analysis... Totalist language, then, is repetitiously centered on all-encompassing jargon, prematurely abstract, highly categorical, relentlessly judging, and to anyone but its most devoted advocate, deadly dull: in Lionel Trilling's phrase, 'the language of nonthought.'..."

"All parasitic strategies lower self-esteem, and therefore, destroy value."

Parasite/Producer III - Practice

12/2000 page 1

"Most people (non-Espians) who use parasite patterns are unaware that they are doing something harmful (harmful because it lowers self-esteem)."

Parasite/Producer III - Practice

12/2000 page 1

"Cult - this is a label that conveys no meaning but devalues the group. It is designed to keep people away from the group without saying what is wrong with it. Example: 'That's a cult.'"

Strategy Name: 'Counter culture.' Response: 'What specifically makes the group a cult?' Or, 'What do you mean by cult?' 'What do they do that's wrong?' Key: The dictionary definition is a system of religious beliefs and rituals."

Parasite/Producer III - Practice  
12/2000 page 6

"Motivational States: These are the emotional states that move people to become interested and excited enough to take action. There are two directions in which human beings can focus their energy and attention to drive motivation. They focus on and move towards goals or objectives, or they focus on and move away from problems or perceived consequences.

Desire State: This is a motivational state that can be accessed at will to drive motivation. It is a 'toward' state.

Toward: These patterns focus directly on goals and objectives. When people are utilizing towards patterns, their effort and attention moves them to have, get, obtain and achieve something as a result of desire.

Away From: These patterns focus directly on identifying circumstances to avoid, and problems that need solving. People who are utilizing circumstances to avoid, and problems that need solving. People who are utilizing away from patterns focus energy on what should be avoided, gotten rid of or not happen. Threats and fear energize them.

Trigger: A stimulus-response mechanism that starts a behavioral pattern is a trigger. In this context, the trigger is the internal image, word or sound; external event or stimulus that happens that causes the emotional state to occur. It is important to identify the trigger so that it can be used to bring back the emotional state, in this case, the motivated state at will.

Key Elements: This is the exact set of physiological components that make up and trigger the emotional state of a person."

Motivation, Building Desire - Definitions 3/2001 page 1

"Cult: Using the term as a way of devaluing a group that is doing nothing wrong. It puts unsubstantiated doubt in the minds of non-critical thinking people and creates doubt."

Shifter

7/2001 page 2

"All of us have copied at some time in our lives."

Tribute - the 5th Integration

7/2001 page 1

## 7. Doctrine Over Person

The personal experiences of the group members are subordinated to the "Truth" held by the group - apparently contrary experiences must be denied or re-interpreted to fit the doctrine of the group. The doctrine is always more important than the individual. Lifton: "This sterile language reflects another characteristic feature of Ideological totalitarianism: the subordination of human experience to the claims of doctrine... [W]hen the myth becomes fused with the totalist sacred science, the resulting 'logic' can be so compelling and coercive that it simply replaces the realities of individual experience. Consequently, past historical events are retrospectively altered, wholly rewritten, or ignored, to make them consistent with the doctrinal logic... The same doctrinal primacy prevails in the totalist approach to changing people: the demand that character and identity be reshaped, not

In accordance with one's special nature or potentialities, but rather to fit the rigid contours of the doctrinal mold... The underlying assumption is that the doctrine--including its mythological elements--is ultimately more valid, true, and real than is any aspect of actual human character or human experience. Thus, even when circumstances require that a totalitarian movement follow a course of action in conflict with or outside the doctrine, there exists [a need to erect] an elaborate façade of new rationalizations designed to demonstrate the unerring consistency of the doctrine and the unfailing foresight which it provides... Rather than modify the myth in accordance with experience, the will to orthodoxy requires instead that men be modified in order to reaffirm the myth... The totalitarian environment... counters... 'deviant' tendencies with the accusation that they stem entirely from personal 'problems'... derived from untoward earlier... influences..."

[No examples.]

## 8. Dispensing of Existence

The group arrogates to itself the prerogative to decide who has the right to exist and who does not. Usually held non-literally, this means that those outside the group are unspiritual, worldly, satanic, "unconscious," or whatever, and that they must be converted to the ideas of the group or they will be lost. If they refuse to join the group, then they must be rejected by the group members, even if they are family members. In rare cases this concept gives the group the right to terminate the outsider's life. Lifton: "The totalitarian environment always draws a sharp line between those whose right to existence can be recognized, and those who possess no such right... [O]ne underlying assumption makes this arrogance mandatory: the conviction that there is just one path to true existence, just one valid mode of being, and that all others are perforce invalid and false... For the individual, the polar emotional conflict is the ultimate existential one of 'being versus nothingness.' He is likely to be drawn to a conversion experience, which he sees as the only means of attaining a path of existence for the future... The totalitarian environment... thus stimulates in everyone a fear of extinction or annihilation... A person can overcome this fear and find... 'confirmation,' not in his individual relationships, but only from the fount of all existence, the totalitarian Organization. Existence comes to depend upon creed (I believe, therefore I am), upon submission (I obey, therefore I am) and beyond these, upon a sense of total merger with the ideological movement. Ultimately of course one compromises and combines the totalitarian 'confirmation' with independent elements of personal identity; but one is ever made aware that, should he stray too far along this 'erroneous path,' his right to existence may be withdrawn."

"All materials and information relating to ESP are to be kept in strict confidence. They are essential assets of ESP acquired at great time and expense. The unauthorized use of them is strictly prohibited, constitutes theft and will cause irreparable harm."

Rules and Regulations

12/2000 page 4

"Remember that Espians understand the model but non-Espians do not."

Parasite/Producer III - Practice

12/2000 page 1

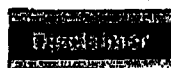
**Note:** Paul Martin is the Director of Wellspring Retreat and a licensed clinical psychologist. Wellspring is a nonprofit residential treatment facility, which was founded in 1986. Located near Albany, Ohio the retreat offers care, education and counseling to the victims of cults, religious abuse, coercive persuasion and/or thought reform programs. It is a nonprofit corporation staffed by credentialed mental health professionals.

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# **A Critical Analysis of the Executive Success Programs Inc.**

**February 12, 2003**

**By Paul Martin, Ph.D.**

**Director of Wellspring Retreat**

Note: Wellspring Retreat & Resource Center is a licensed residential treatment facility that provides a program of counseling and instruction to victims of cultic abuse, religious abuse and/or thought reform.

Executive Success Programs Inc. by Keith Raniere is a series of high intensity high demand work shops that are designed to "actualize human potential"<sup>1</sup> A selection of promotional material dated 1/30/2001, entitled "Executive Success Programs. Inc, (ESP)" reads, "Our School is designed to change the way people think, make decisions, react, and perform in various [areas?] of life.....All of ESP's programs are designed to help individuals develop the emotional and intellectual skills necessary to reach their maximum potential in all areas of life. Rational Inquiry is a science based on the belief that the more consistent a person is in their thinking, the more successful the individual will be."

In the same promotional sheet, there is a paragraph entitled "Why should I do this?" - meaning why should a person take ESP? Raniere writes, "All adults have disintegrations because when we were children learning to be adults and learning about the world our perspective was based on the perception, intellect, and wisdom of a small child. These lessons become the foundation of our whole adult reality. There has never been vehicle in our society that allowed us to go through and re-examine these beliefs and re-incorporate them now from an adult perspective.....until now. Rational Inquiry is that vehicle. It is the systematic introspective science that provides us with the necessary tools for human transformation."

A key motto of ESP is "We Teach everything nobody else teaches..." and everything they do<sup>2</sup> ESP claims that students will reach "their full potential" with the program.<sup>3</sup> Raniere claims to have devised a "radical new technology to create an unprecedented success program. It is a total personal and professional development system."<sup>4</sup>

ESP can be further defined by looking at the 12 Point Mission Statement of ESP,<sup>5</sup> The first point is, "Success is an internal state of clear, honest knowledge of what I am - my value in the world and my responsibility for the way I react to all things." The second point is, "There are no ultimate victims, therefore, I will not choose to be a victim." The information gleaned from ESP seminars is to be kept confidential. There is a pledge to purge oneself of all parasite and envy based habits. There is a pledge to control as much of the money of the world as possible within each student's success plan. In fact, it is essential for the survival of the world for as much money of the world to be controlled by ethical people - by implication, graduates of ESP. The mission statement says, "A world of successful people will be people a better world indeed a world devoid of hunger, theft, dishonesty, envy and insecurity. People will no longer try to destroy each other steal from each other down each other or rejoice at another's demise. Success ethics and integrity are co-inspirational. I pledge to share and enroll people in ESP and its mission for myself and to help make the world a better place to live."<sup>6</sup>

In a workshop session called "Mission," the reader is further enlightened as to the purposes of ESP.

How does understanding ESP'S integrated matrix help us determine destructive patterns of human behavior and give us clues as to what is to come? We are now at the highest level of technological advancement in human history. The lifestyle current technology affords us has never existed before on the planet. Human civilization has had rises and falls for centuries; yet, it is our belief humanity cannot survive another fall. All members of the human team must understand the historic reasons behind this tendency so we can change it and survive. We believe this is the ultimate cause because it means our existence and all other causes and our existence depend on this knowledge. The Mission of ESP is to develop an integrated ethical framework of human experience to stop the destruction of value in the world and move humanity forward. This practice session explains ESP's mission and gives students a clear knowledge of how and why to act to change historic trends.<sup>7</sup>

ESP Training is offered through workshops called "Intensives."<sup>8</sup> The term "Intensive" is fairly common in the human potential movement to describe their training courses. ESP Intensives are offered as a three day or weekend, 5-Day, or 16-Day Intensive. The 16-Day course starts at 8 am to 9 pm daily with lunch and dinner breaks and breaks. Tuition cost is \$7500.00 or \$6000.00 if paid two weeks in advance. Full tuition must be paid first day of class.

The 5-Day Intensive. Cost is \$2700.00. Pre-registration discount is \$2160.00. Full amount must be paid two weeks before class resumes. Class hours are the same as those for the 16-Day Intensive.

The 3-Day Intensive: Friday 4-10, Saturday, 8 AM to 9 PM, Sunday 9 AM to 6 PM. Tuition \$1200.00. Full tuition must be paid two weeks before Intensive starts.

There is also an Ethos Training for Coaches and Coach Apprentices. This program appears to be offered beyond the 16 day intensives. There are several levels of lengths of enrollment and the cost varies according to time of enrollment from 3 to 12 months and from \$800 to \$1800. There is a full refund guarantee for those signing up for the one year Ethos program if students are not satisfied.

Students also are required to wear sashes which signify rank. A white sash reflects student status, stripes reflect levels of certification and practice. Yellow sashes are worn by an Apprentice Coach/Coach. Having one stripe signifies a true coach. Two or Three Stripes indicate more advanced and experienced coaches. Three stripes is an active contributor. Four stripes indicates "Full Integration facilitated." Orange Sash: Apprentice Proctor/Proctor. Coach Certification II. Orange Sash is the highest sash rank.<sup>9</sup>

ESP Intensives then lay out the mechanics of how the student is to achieve all the success promised by ESP. This process is accomplished through a series of topics presented during the "Intensive" sessions. Ranlere places great emphasis on the psychological concept of projection. However, according to ESP "until now there has never been a concise explanation of how this complex process works."<sup>10</sup> The Intensive includes the three stages of human evolution in which, according to Ranlere, human beings are born parasitic, unable to take care of themselves, they depend on others for their very survival." As adults parasite strategies, "keep people dependent on others and lower self esteem."<sup>11</sup> Many examples of parasite behavior are presented, such as complaining about pain and suffering, saying, "I'm hungry," "I know I promised but I had no idea how hard or painful this was going to be." The point here according to ESP is that parasites try to avoid responsibility simply because they tried so hard.<sup>12</sup>

The program spells out a new version of "Good and Bad." Here is a sampling from the workshop

When we were little children, we learned "bad" when someone yelled "No!" or "That's bad. Stop!" We learned "good" when we were rewarded in some way. This sort of learning is inconsistent and limiting - because in order to have a full understanding of each concept, we would have to examine every example of good and every example of bad. This practice session affords you the opportunity

to re-evaluate your definitions of these vital concepts to form a solid foundation for the future.<sup>13</sup>

In the course of the program normal terms such as good and bad are redefined. Good becomes pro survival, and bad counter survival or destructive of value. Rules according to ESP are fear based and ethics are internalized.

ESP then adds the element of a motivational track where students are taught and practice certain motivational states such as "Toward" which is patterns that "focus directly on goals and objectives. When people are utilizing toward patterns, their effort and attention moves them to have, get, obtain and achieve something as a result of desire."<sup>14</sup>

Other concepts covered in the motivation section include, "Away From," patterns that "focus directly on circumstances to avoid....."; "trigger," "a stimulus response mechanism.....used to bring back the emotional state.....the motivational state at will."<sup>15</sup>

## Analysis

ESP makes some bold and unique claims about what it wants to accomplish and what it is. In summary the following list presents many of the salient points of the ESP program.

1. It is designed to "help individuals develop the emotional and intellectual skills necessary to reach their maximum potential in all areas of life."<sup>16</sup>
2. ESP is a "science based on the belief that the more consistent a person is in their thinking, the more successful the individual will be."<sup>17</sup>
3. "All adults have disintegrations because when we were children learning to be adults and learning about the world our perspective was based on the perception, intellect, and wisdom of a small child."<sup>18</sup>
4. "There has never been a vehicle in our society that allowed us to go through and re-examine these beliefs and re-incorporate them now from an adult perspective - until now. Rational Inquiry is that vehicle. It is the systematic introspective science that provides us with the necessary tools for human transformation"<sup>19</sup>
5. "There are no ultimate victims."<sup>20</sup>
6. "The Information gleaned from ESP Seminars is to be kept confidential."<sup>21</sup>
7. "There is a pledge to control as much of the money of the world as possible within each student's success plan. In fact it is essential for the survival of the world for as much money of the world to be controlled by ethical people."<sup>22</sup>
8. "It is our belief that humanity cannot survive another fall. All members of the human team must understand the historic reasons behind this tendency so we can change it and survive. We believe this is the ultimate cause because it means our existence and all other causes and our existence depend on this knowledge. The Mission of ESP is to develop an integrated ethical framework of human experience to stop the destruction of value in the world and move humanity forward. This practice session explains ESP's mission and gives students a clear knowledge of how and why to act and to change historic trends."<sup>23</sup>

The first point of analysis deals with a claim that ESP will provide the tools, or training that will help

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people reach their maximum potential in all areas of life. What does this mean? What is maximum potential? Are there scientific measures for maximum potential? Does "all areas of life" extend to health benefits? Would those taking the training have less cancer, less heart disease? Do ESP graduates have better marriages, happier children? The point is that the use of the phrase "all areas of life" and "maximum potential" appear promising but the phrases demand defining, otherwise they are phrases without practical, concrete application.

Further, how does Raniere know? What evidence has he provided? Having hotel conference rooms filled with happy attendees is not "proof" that the program has achieved maximum potential in all areas of life. It may be proof that there are people in the room. Some may be happy to be there, some may want to leave, some may have benefitted in some areas of their lives, some may have seen decline in aspects in other areas of their lives. The point is that the area is open to empirical investigation, but there are no independent studies demonstrating that ESP can support these claims.

The second point is the claim that ESP is a science. Raniere says it is, but that does not make it so. Science must meet certain requirements. There is nothing in the published scientific literature about ESP nor has an exhaustive search of the psychological literature base shown any publications by Keith Raniere.<sup>24</sup>

The third area for analysis concerns the fact that adults have perceptual distortions, "disintegrations" developed from childhood. He too was a child and was likewise a casualty of perceptual distortions. This presents a problem for Raniere. How did he overcome these distortions? By what measure would one judge that Raniere is free of the distortions? How did Raniere know there were distortions? How does Raniere know that every child suffers from these distortions? Did he do a study of every child on earth? Such a study is clearly impossible. Therefore, how does he know this truth? Unfortunately, the workshop participant appears to have to accept these claims by faith. But this faith is a far cry from the scientific claims of ESP that Raniere asserts.

The fourth area is an extension of the third, namely, that not only do all humans have distortions or disintegrations but no one has ever developed a mechanism to examine these disintegrations and correct them. Again, the attendee must rely on Raniere's word alone. Of course, one must assume the truth of the disintegrations to then assume that Raniere has also scanned all the "vehicles in our society" to see if any one group, individual or system has re-examined the faulty beliefs or disintegrations held by the world's masses. Raniere apparently has provided no evidence that he has done such an analysis. And if he has it would be a monumental undertaking.

Number five, maintains that "There are no ultimate victims." What does this mean? How far do we take human responsibility? Is a raped woman somewhat responsible for her rape? Is a battered wife somewhat responsible for her battering? Is an employee subject to a mean, dishonest, boss somehow not a victim? Are slaves in some manner not victims? Are those hit and hopelessly crippled by a drunk driver not victims? Are those accidentally paralyzed by the slip of a surgeon's knife not victims? What does Raniere have to say to this? The normal definition of victim, according to the Oxford Dictionary of the English Language, is "a person harmed, injured, or killed as a result of a crime or accident. 2. A person who is tricked or duped." Common observation teaches that there are victims. ESP appears to make victimhood seem as unnatural as sensing the brisk chill on one's cheeks on the morning of the first autumn frost.

The sixth area of analysis concerns the need to keep the ESP material confidential, and by extension invite people to attend to ESP Intensives where they pay to receive this information. Certainly, Mr. Raniere has intellectual property rights if he so desires. Most of his material has a patent pending and copyright on the bottom of the printed materials. He certainly has the right for his students not to distribute the material, copy it, or sell it. But the ESP Mission Statement says,

"The methods and information I learn in ESP are for my use only. I will not speak of them, or in



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any way give others knowledge of them, outside ESP. Part of the condition of being accepted into ESP is to keep all its information confidential. If I violate this I am breaking a promise and breaching my contract, but more importantly I am compromising my inner honesty and integrity."

This segment of the Mission segment appears to stretch beyond the intent of what might be covered by copyright and intellectual property rights. The confidentiality issue seems to approach a gag order. Why? What is the harm in some general discussion about your workshop. In fact, what would be the harm if you have invested so much time in these Intensives and share some general observations about them with your wife, mother, or boss? The prohibition on sharing may serve as a wedge between those who have taken the courses and those who have not. This confidentiality issue may put pressure on people to enroll loved ones just so they can talk again. Perhaps the actual answer is not as important as the question "Why? Why is it necessary?" It would seem that some of the pressure on the copyright issue would be taken off if Raniere published some tapes, wrote a few articles, or wrote a book. Then people could blab all they wanted about his book, the tapes, articles, etc. And it would answer the nagging question "Why?" But if Raniere isn't interested in selling tapes, then there may be a problem elsewhere.

Number seven is simply breathtaking, that ESP graduates need to make as much money as possible and control as much money as possible in order to save the world from destruction. A modest proposal, and a humble one as well! History has shown that the ethic of seeking wealth is a risky one at best, especially one that tells us to control as much as possible, as much of the wealth in the world! Power corrupts! Wealth also tends to corrupt. How did Raniere, a la "Vanguard," divine such truth? On face value any proposal that suggests that a group of graduates from a human potential seminar should control as much money, wealth, and resources of the world as possible in order to save the world seems to come leaping out of the pages of a James Bond novel! Here Bond is summoned by M and a file is given to him about a madman - a Keith Raniere who has trained over 400,000 followers who are now rapidly accumulating most of the world's wealth. ESP followers have plans on "controlling as much of the wealth, money and resources of the world as possible." I am sure someone of importance will look at Raniere. His claims are not benign. Either they must be taken seriously, that is he has developed a science and therefore he must come up with the corresponding proof. So far he has not. Or he is the leader of one of the largest human potential growth enterprises, devoid of scientific proof. If his claims are bogus then it is likely that he is a person with a serious mental problem and/or a con man with very grand and perhaps not so benevolent schemes.

Number eight continues with the seventh theme, "It is our belief that humanity cannot survive another fall. All members of the human team must understand the historic reasons behind this tendency so we can change it and survive. We believe this is the ultimate cause because it means our existence and all other causes and our existence depend on this knowledge. The Mission of ESP is to develop an integrated ethical framework of human experience to stop the destruction of value in the world and move humanity forward. This practice session explains ESP's mission and gives students a clear knowledge of how and why to act and to change historic trends."<sup>25</sup>

The same arguments and analysis applied to number seven applies to number eight. However, not only is ESP interested in wealth and power, the knowledge that ESP possesses is essential for the survival of humanity! What Moses and all true prophets throughout the ages of human history could not do, Raniere claims he can do. It now it appears that Raniere has developed an ethical framework "to stop the destruction of value in the world and move humanity forward." This appears nothing short of a religion, a system that has answers to the problems of life.

Some meta analysis is in order. The Mission and the other promotional material that I have cited from ESP bear two similarities to other types of groups. First, Dr. Robert J. Lifton describes a concept he calls "sacred science". ESP is portrays the characteristics of the "sacred science" in the following ways.<sup>26</sup>

First there is the "ultimate moral vision for the ordering of human existence." Then, there seems to

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be little room for questioning of basic assumptions. Raniere cleverly redefines "cult" in an attempt to deflect questions about his organization. Next there is a demand in sacred science for a "reverence for the originators of the Word." A comparison with the readings of ESP can clearly see the emphasis paid on "Tribute" and especially tribute to "vanguard." Sacred science makes the claim of airtight scientific precision, and ESP also makes the claim that it too is scientific. Here we have with ESP the idea that Raniere's moral vision can be true for all men for all times, a true sacred science that, according to Raniere, is a scientific discovery.

The similarities between ESP and a sacred science continue to the individual level. There is the promise of personal growth and success. Again, the possibility for genuine insight and inner discovery is held out to the seeker. And this experience of genuine inner transformation clouds the reality that the overarching truth of the movement is not based on some logic and science that is going to change the course of history. ESP has created a system so broad that within the system there is no thought or area that cannot be adequately covered by some principle. And that is exactly like a sacred science, "there is no thought or action which cannot be related to it."<sup>27</sup>

The teaching and practices of the workshop contain elements that correspond to the eight themes of thought reform as described by Lifton, of which the "sacred science" is just one. The materials from several Intensives were examined, including those from 1/30/2001, 12/2000, 1/2001, 2/2001, 4/2001, 5/2001, 6/2001 and 7/2001. The specific examples are individually referenced.

So far we have presented evidence showing that ESP has characteristics that are consistent with the themes of thought reform. What then are some of the consequences of those subject to thought reform programs? Lifton observed certain clinical symptoms in the subjects he studied. For example: borderline psychotic state, split identity, fear (p. 33), confusion (p. 34), feeling neglected, hostile, suspicious, critical, lonely, missing communism - yet terrible ambivalence about it (pp. 35,36), lifestyle changes (p. 39). Other symptoms include inability to distinguish the real from the unreal (p. 45), an attack on one's sense of inner identity, a confession process of expelling the old self and allowing the group to re-educate the person (pp. 67,68). In such environments people become guilty, they feel they must change, they must confess, betray self and/or others. Then comes a sense of fear, a near total difference between the new environment and the old once known. There is then a fear of annihilation. One's only relief besides psychosis, suicide, or death is to merge with the movement and thus experience the "new birth." He then also experiences leniency, and then the student becomes a willing participant in his or her own thought reform (pp. 70-73). However, the new self which was spawned by conspiracy and guilt continues to permeate the victim of thought reform (pp. 78-81). There are also great problems with trust (p. 85).

Those who express thought reform cliches may reflect an inner brittleness about their true inner conversion (p. 118). Often there is ambivalence about confession, about the horrors of the group. They may shock others and say something to the effect that things in the group were, "perfectly well," they may say little to parents and talk about it at length to old friends (p. 125). Guilt can be overwhelming and irrational - guilt about still holding good thoughts about the group, and guilt towards those who arranged their release (p. 126).

Even among apparent resisters there had been penetration into the theological structures of, for example, a priest (p. 126). Thought reform succeeded in eliciting incriminating confessions from all Westerners whom Lifton interviewed (p. 150). Resisters though suffered fear, confusion, and agitation (p. 175). Some felt shame for the perceived moral failures in cooperating with communists while under their mental sway (p. 186). Certain aspects of the movement are retained while the movement as a whole is rejected (p. 195). In time even the flaws of the remaining portion, i.e., criticism and self criticism, are rejected (p. 195).

The long term task for recovery was to regain the self overcome with guilt, in a word "the restoration of integrity" (p. 223).



As Lifton noted, for those Westerners imprisoned and subjected to thought reform programs only one or possibly two from fewer than a hundred were transformed into genuine communists (p. 237). But knowing the enduring effects of thought reform is perhaps the most essential aspect in understanding thought reform.

"Despite the years that had passed since their imprisonment, these men and women were still grappling with the powerful emotions and ideas implanted by the Chinese Communists. Most had succeeded in neutralizing them; but the implant had been compelling enough to defy easy excision. For once a man has been put through prison thought reform, he never completely casts off its picture of the world and of himself" (p. 237).

"Four years after the experience my subjects still bore marks of both fear and relief" (p. 238)

Yet undergoing such an ordeal can be "therapeutic," there are reports of becoming "emotionally strengthened," and becoming more sensitive to one's own and others' inner feelings, and "more flexible and confident in human relationships" (p. 238).

Of those in the revolutionary colleges, where there was no physical imprisonment, symptoms were also present. There were first-hand reports of some becoming psychotic, at least one third of the students were observed to show signs of "fatigue, insomnia, loss of appetite, vague aches and pains, upper respiratory or gastrointestinal symptoms" (p. 266). Common symptoms included fear, guilt, hate, inability to maintain emotional control regarding feelings relating to communism, and nightmares (pp. 289-299).

A profound sense of "anomie with profound personal and social and social dislocation and unrelatedness" is perhaps the hallmark of all thought reform victims (p. 309).

Clearly, the thought reform experience is not benign. However, in saying this it would be erroneous to conclude all participants are harmed equally. Before leaving Lifton, it is important to note his observation made in the preface to the 1989 edition to his *Thought Reform and the Psychology of Totalism*. There he commented how the advent of communism had been superseded by a "worldwide epidemic of political and religious fundamentalism.....these latter groups are often referred to as cults." Lifton went on to define cults as groups with charismatic leadership, and having patterns of thought reform as described in his book (p. vii).

In closing there is an entire body of literature about cults and psychological harm. For brevity's sake, I will list only two major references on the topic.<sup>28</sup>

#### Footnotes:

<sup>1</sup> See 12 point mission statement by Keith Raniere

<sup>2</sup> From promotional piece entitled "We teach everything nobody else teaches... and everything they do - Executive success programs

<sup>3</sup> Ibid.

<sup>4</sup> Ibid

<sup>5</sup> 12 Point Mission Statement of Keith Raniere

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<sup>6</sup> Ibid

<sup>7</sup> "Mission" Student notes 3/2001 p.1.

<sup>8</sup> Promotional Material entitled "Executive Success Programs, Inc, (ESP)" dated 1/30/2001

<sup>9</sup> See ESP materials White, Yellow, Orange Sash" Draft Copyright 2000 Executive Success programs, Inc.

<sup>10</sup> "The Face of The Universe" Student's note #2 "Projection," 3/2001

<sup>11</sup> "Parasite/Producer Module I -Concepts Student Notes, p.1 7/2001

<sup>12</sup> Ibid.

<sup>13</sup> "Good and Bad" Student Notes, p.1, 7/2001

<sup>14</sup> "Motivation, Building Desire" Student Notes, p.1 3/2001

<sup>15</sup> Ibid.

<sup>16</sup> "Executive Success Programs, Inc promotional material dated 1/30/2001

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> 12 Point Mission statement of Keith Raniere

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> "Mission" Student notes, p.1, 3/2001

<sup>24</sup> Utilizing Psycit, a computerized literature search of all psychological and psychiatric journals, nothing appeared under Keith Raniere or Executive Success Programs, Inc.

<sup>25</sup> "Mission" Student notes, p.1, 3/2001

<sup>26</sup> Robert Jay Lifton, Thought Reform and The Psychology of Totalism: A Study of "Brainwashing" in China, Chapel Hill

and London, The University of North Carolina Press, 1989 edition.

<sup>27</sup> Ibid.

<sup>28</sup> Paul R. Martin, Michael D. Langone, Arthur A. Dole, Jeffrey Wilttrout, 1992. "Post-Cult Symptoms as Measured Before and After Residential Treatment." *Cultic Studies Journal*, Vol.9 No. 2, pp. 219-250.

Jodi Lynn Aronoff, Jay Steven, Peter Malinoski, 2000. "Are Cultic Environments Psychologically Harmful?" *Clinical Psychology Review*, Vol. 20, No.1, pp. 91-111.

**Note:** Paul Martin is the Director of Wellspring Retreat and a licensed clinical psychologist. Wellspring is a nonprofit residential treatment facility, which was founded in 1986. Located near Albany, Ohio the retreat offers care, education and counseling to the victims of cults, religious abuse, coercive persuasion and/or thought reform programs. It is a nonprofit corporation staffed by credentialed mental health professionals.

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# What's \$2.995 Million Between Former Enemies?

**Phoenix New Times/December 19 -25, 1996**

**By Tony Ortega**

In 1995, a jury awarded Jason Scott \$5 million, ruling that his civil rights had been violated during an involuntary "deprogramming" by Rick Ross, a Phoenix resident and well-known cult expert. That judgment eventually forced Ross into bankruptcy court, put an anticult group out of business and made national news.

Last week, however, the case made a sudden and surprising about -face.

Scott and Ross reached a settlement that requires the deprogrammer to pay Scott not \$3 million-- his share of the judgment-- but a mere \$5,000. As part of the agreement, Ross will also give Scott 200 hours of professional services, free of charge.

Meanwhile, Scott has reunited with his mother, who hired Ross to do the deprogramming, and has fired his attorney, Kendrick Moxon, a member of the Church of Scientology, which has a history of opposing Ross. Scott's new attorney is Graham Berry, who is well-known for his role in litigation against the Church of Scientology.

The sudden settlement and lawyer- swap is just the latest twist in a hotly contested case full of clashing allegations by anticult activists and representatives of Scientology.

The case springs from a 1990 incident in which three men grabbed 18- year-old Scott, handcuffed him, put duct tape over his mouth and stuffed him into a van. Looking on were Rick Ross and Kathy Tonkin, Scott's mother. Tonkin had asked Ross to perform the involuntary deprogramming of Scott after Ross had persuaded her two younger sons to leave a Bellevue, Washington, Pentecostal church. Tonkin had asked her entire family to attend the church but later left.

Scott was taken by Ross' "security" men to a beach house and held against his will for days as Ross tried to convince him that his church was a destructive cult. Eventually, Scott escaped, and criminal charges were brought against Ross and the three men. All four were acquitted in 1994.

**The settlement requires Phoenix cult expert Rick Ross to pay Jason Scott a mere \$5,000.**

A year later, however, a civil-court jury in Seattle found that Ross, his three accomplices and the Cult Awareness Network had violated Scott's civil rights, and ordered them to pay Scott \$5 million. The Cult Awareness Network (CAN) was included as a defendant in that lawsuit because a former member of the network, which acts as a clearinghouse for cult information, had referred Tonkin to Ross.

***[Note: WARNING! The Cult Awareness Network (CAN) was recently bankrupted and bought up by Scientology. We strongly recommend you do not contact them for assistance.]***

CAN's share of the civil penalty --more than \$1 million--forced the Chicago-based organization into bankruptcy. The *Washington Post* recently reported that CAN's assets--everything but its confidential files--had been sold by the bankruptcy estate for \$20,000. The purchaser was Steven

Hayes, a Scientologist attorney whose partner, Timothy Bowles, once shared offices with Kendrick Moxon.

But that asset sale seems to have sparked the settlement between Ross and Scott-- a settlement that is unlikely to please the Church of Scientology.

Kathy Tonkin has repeatedly claimed that her son pursued his lawsuit against Rick Ross and CAN only at the urging of his Scientologist attorney, Moxon. (Moxon insists Scott came to him for help.) Scott and his mother reunited several weeks ago, and she persuaded him to contact Ross to work out a settlement. As the settlement was being negotiated, the sale of CAN property became public.

"When he became aware that the CAN asset sale was occurring without seeing any benefit himself, [Scott] began to wonder if Mr. Moxon's interests were different than his own. And that thought was confirmed when he read the *Washington Post* article," says Graham Berry, Scott's new attorney.

"The Church of Scientology has had a long-standing campaign to destroy the Cult Awareness Network. It was in the interests of Mr. Moxon's major client, the Church of Scientology, to destroy CAN totally and to do what has occurred. It was not in Jason Scott's interest at all. "

Scott has not just fired an attorney with ties to Scientology; he has hired an attorney with a history of opposing that church.

"In my very first conversation with Jason," Berry says, "within the first minute of that conversation, I advised Jason that he was talking to someone Kendrick Moxon would consider his archenemy. Jason understood that and continued to talk to me for nearly an hour. I also disclosed to Jason that I have a long history of litigation against the Church of Scientology which considers me to be one of its major enemies, and that I have acquaintances in CAN and who represent CAN. As a result, I not only insisted on a very comprehensive retainer agreement, but insisted that he receive independent legal advice before he retained me."

Berry suggested that his new client may take legal action over the handling of the bankruptcy case. "I have put both the trustee in bankruptcy and Mr. Moxon on notice of a possible lawsuit by Jason Scott for what has been done."

Moxon counters with claims that Jason Scott has been coerced into firing him.

"Jason Scott was kidnaped by these people. He was deprogrammed. I think he's being held prisoner," Moxon says, but he admits that he has no proof that Scott is being coerced or imprisoned.

He also claimed not to know where Scott was being "held." However, Moxon knew enough, apparently, to show up at the home of Kathy Tonkin in Lake Montezuma December 6 where Jason Scott is presently staying. Accompanied by a Yavapai County sheriff's deputy, Moxon served subpoenas on Tonkin and Scott and engaged in a heated discussion with them. The sheriff's office confirms that, at Tonkin's request, Moxon was then escorted by the deputy from her property.

Berry says that Scott talked briefly to the *Washington Post* last week to make it clear he has not been kidnaped or coerced. Scott is not making further comment to media inquiries, Berry says.

"Mr. Moxon has refused to turn over any [of Scott's legal] files and has filed a motion in the federal district court in the state of Washington requesting a hearing on whether or not Jason Scott is being held captive and is acting against his will," Berry says. (On December 5, the federal court refused to consider Moxon's motion.)

"I, in the meantime, have filed a complaint with the California state bar, asking the state bar to


intervene on the question of turning over the files to me. And I'm also urging the state bar to turn the matter over to the U.S. attorney for further investigation."

Ross expresses relief that the case has been settled, but acknowledges that his own carelessness with the settlement has produced problems. "I shared the agreement with a friend who apparently leaked it, and it ended up in the hands of the *Washington Post*," he says.

The premature announcement of the settlement, Berry says, made Scott so angry he may ask Ross to renegotiate terms. Berry refused to say what services Ross would provide to Scott under the agreement. But, the lawyer said, it would be a mistake to assume that Scott's decision to make use of Ross' time was a vindication of Ross or his deprogramming methods.

**To see more documents/articles regarding this group/organization/subject [click here.](#)**

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# **EXHIBIT C**



COPY

1

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK

3 -----

4 NXIVM CORPORATION, et al.

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8 Plaintiffs,

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-versus-

03-CV-976

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(DECISION)

11

12 THE ROSS INSTITUTE, et al.

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Defendants.

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TRANSCRIPT OF PROCEEDINGS held in and for  
the United States District Court, Northern District of  
New York, at the James T. Foley United States Courthouse,  
445 Broadway, Albany, New York 12207, on MONDAY,  
SEPTEMBER 8, 2003, before the HON. THOMAS J. McAVOY,  
United States District Court Judge.

1 APPEARANCES:

2

3 FOR THE PLAINTIFF:

4

5 TOBIN, DEMPFF LAW FIRM

6 BY: KEVIN A. LUIBRAND, ESQ.

7 - and -

8 SCHMEISER, OLSEN LAW FIRM

9 BY: ARLEN L. OLSEN, ESQ.

10

11

12

13 FOR THE DEFENDANT ROSS INSTITUTE:

14

15 GLEASON, DUNN LAW FIRM

16 BY: THOMAS F. GLEASON, ESQ.

17

18

19

20 FOR THE DEFENDANT STEPHANIE FRANCO:

21 RIKER, DANZIG LAW FIRM

22 BY: ANTHONY J. SYLVESTER, ESQ.

23

24

25

NXIVM v THE ROSS INSTITUTE

3

1 (Court commenced at 10:30 AM.)

2 THE CLERK: NXIVM Corporation, et al. versus  
3 the Ross Institute, 03-CV-976.

4 May I have the appearances for the plaintiff.

5 MR. LUIBRAND: For the plaintiffs, Kevin  
6 Luibrand from Tobin & Dempf in Albany.

7 THE COURT: All right.

8 MR. OLSEN: For the plaintiffs, Arlen Olsen  
9 from Schmeiser & Olsen.

10 THE CLERK: On behalf of the defendant.

11 MR. SYLVESTER: Yes, good morning, your Honor.  
12 Anthony J. Sylvester from Riker, Danzig, on both matters, for  
13 the defendant Stephanie Franco.

14 MR. GLEASON: Thomas F. Gleason, in both  
15 matters, on behalf of the Ross Institute, Rick Ross and Paul  
16 Martin, and Wellspring Retreat, Inc. and I think that's it.

17 THE COURT: All right. The plaintiffs' motion  
18 is brought by separate order to show cause for preliminary  
19 injunction preventing the defendants from disseminating  
20 information about the plaintiffs' business. So Mr. Luibrand  
21 why should the Court issue injunctions in this case?

22 (Oral argument heard.)

23 - - - - -

24

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NXIVM v THE ROSS INSTITUTE

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1 (Brief recess at 11:25 AM.)

2 (Court reconvened at 11:32 AM.)

3 THE COURT: I am just going to begin by  
4 addressing something that wasn't addressed by the parties,  
5 something about my gratuitous comment before you began  
6 argument.

7 As is evident, cases 03-CV-976 and 03-CV-1051  
8 involve common questions of fact. Separate trials would be  
9 wasteful of the scarce judicial resources in this district.  
10 See Internet Law Library Inc. versus Carr, 2002 Westlaw  
11 550966 \*2. In the exercise of discretion, the Court  
12 consolidates the two actions pursuant to Rule 42 (a). See  
13 Curtis versus CitiBank NA, 226 F.3d 133, at 138. The first  
14 filed case, 03-CV-976, will be the lead case.

15 The Court has already set forth the  
16 preliminary injunction standard in its August 21st decision  
17 in the lead case. The Court adds, however, that while a  
18 factual hearing is generally required on an application for  
19 an injunction, no hearing is required where no material  
20 issues are in dispute. Maryland Casualty Company versus  
21 Realty Advisory Board on Labor Relations, 107 F.3d 979, at  
22 984.

23 Addressing the copyright claim first,  
24 plaintiffs are correct that a demonstration of likelihood of  
25 success on the merits equates with a presumption of

NXIVM v THE ROSS INSTITUTE

5

1 irreparable harm. See Random House Inc. versus Rosetta Books  
2 LLC, 283 F.3d 490, at 491. However, plaintiffs have not made  
3 such a demonstration.

4 There is no dispute that plaintiffs offer  
5 personal success programs, but none of the defendants offer  
6 anything remotely similar. Further, there's no dispute that  
7 the allegedly offending works of Dr. Martin criticize  
8 plaintiffs' courses, but do not encourage readers to take any  
9 other type of self-improvement course.

10 Section 107 of Title 17, United States Code  
11 provides that the, quote, fair use of a copyrighted work,  
12 including such use by reproduction and copies for purposes  
13 such as criticism, comment, news reporting, teaching,  
14 scholarship or research is not an infringement of copyright,  
15 close quote. The statute sets forth four factors to be  
16 examined, quote, in determining whether the use made of a  
17 work in any particular case is a fair use, close quote. The  
18 statute further provides that, quote, the fact that a work is  
19 unpublished shall not itself bar a finding of fair use if  
20 such finding is made upon consideration of all the above  
21 factors, close quote.

22 While the defendants have the burden of  
23 proving that their potentially infringing use was fair, see  
24 Infinity Broadcast Corporation versus Kirkwood, 150 F.3d 104,  
25 at 107, they need not establish that all of the factors favor

NXIVM v THE ROSS INSTITUTE

6

1 them. Wright versus Warner Books Incorporated, 953 F.2d 731,  
2 at 740.

3 Here, given the fact that Martin's works  
4 clearly constitute, quote, criticism, scholarship or  
5 research, close quote, about plaintiffs' courses and not a  
6 primer on executive success techniques, the first factor is  
7 in the defendants' favor. See New Era Publications  
8 International ApS versus Carol Publishing Group, 904 F.2d  
9 152. His two works are clearly transformative in nature.  
10 Campbell versus Acuff-Rose Music, Incorporated, 510 U.S. 569,  
11 at 579. The fact that some defendants might conceivably  
12 profit from Dr. Martin's criticism through the offering of  
13 the deprogramming services doesn't change the impact of this  
14 factor. See Castle Rock Entertainment versus Carol  
15 Publishing Group, 150 F.3d 132, 141, 142.

16 When analyzing the second factor, courts look  
17 to whether the original work previously had been published,  
18 whether it is fictional, and whether it is creative in  
19 nature. As indicated, the fact that the original work was  
20 not published requires the Court to examine all the factors.  
21 Creative works are entitled to greater copyright protection  
22 than factual works. Video-Cinema Films Incorporated versus  
23 Cable News Network Inc., 2001 Westlaw 1518264 at \*7. This  
24 factor favors the plaintiffs, but is not dispositive. On  
25 Davis versus The Gap Incorporated, 246 F.3d 152, at 175.

NXIVM v THE ROSS INSTITUTE

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1           The third factor has both a quantitative and a  
2 qualitative aspect to it. Wright, at 738. Thus, this Court  
3 must consider whether the quotes in Martin's work formed a  
4 significant percentage of the copyrighted works and whether  
5 the quotes are essentially the heart of the copyrighted  
6 works. Wright, at 738. Courts have also considered, quote,  
7 whether the quantity of the material used was reasonable in  
8 relation to the purpose of the copying, close quote.

9 American Geophysical Union versus Texaco Incorporated, 60  
10 F.3d 913, at 926, and citing Campbell, 510 U.S. at 586.

11           While Martin's works do quote expansively from  
12 plaintiffs' materials, the quotes appear reasonably necessary  
13 to convey his point. Further, plaintiffs have asserted that  
14 it took 30 years to develop the rational inquiry technology  
15 and that the science of this technology is realized by the  
16 meticulous fashion that words, the order of words, questions  
17 and order of questions are used in the course material. The  
18 defendant Franco has submitted an affidavit which attaches  
19 over 500 pages of course materials, much of which is in  
20 outline form to be covered in consecutive ten-hour day  
21 seminars in which students interact with ESP coaches. How  
22 the coaches respond to student's statements and answers does  
23 not appear in the course materials. Because a copyright  
24 protects only the form of expression and not the ideas  
25 expressed, Attia versus Society of New York Hospital, 201

NXIVM v THE ROSS INSTITUTE

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1 F.3d 50, at page 54, cert. denied, 531 U.S. 843; see 17 U.S.  
2 Code Annotated, Section 102(b), it hardly appears that  
3 expression of plaintiffs' theory could be captured in the  
4 registered works or that Martin's two writings which, taken  
5 together, consists of 17 pages, could capture the heart of  
6 it. This factor is, at best, neutral.

7 Looking at the fourth factor, the Supreme  
8 Court in Campbell explained that if the secondary work harms  
9 the market for the original through criticism or parody,  
10 rather than by offering a market substitute for the original,  
11 it does not produce a harm cognizable under the Copyright  
12 Act. That's in quotes, it does not produce a harm cognizable  
13 under the Copyright Act, close quote. Campbell, at 592.  
14 Quote, the role of the courts is to distinguish between  
15 biting criticism that merely suppresses demand and copyright  
16 infringement which usurps the market for the original, close  
17 quote. Campbell, at 592.

18 Martin's writings are undoubtedly  
19 transformative secondary uses intended as a form of  
20 criticism. All of the alleged harm arises from the biting  
21 criticism of this fair use, not from a usurpation of the  
22 market by any of the defendants. See On Davis, at 175.

23 In On Davis, the Second Circuit wrote:

24 When secondary uses harms the market for or  
25 value of the original, courts must examine the source of the



NXIVM v THE ROSS INSTITUTE

9

1 harm. If the harm resulted from a transformative secondary  
2 use that lowered the public's estimation of the original,  
3 paren, such as a devastating review of a book that quotes  
4 liberally from the original to show how silly and poorly  
5 written it is, close paren, this transformative use will be  
6 found to be a fair use, notwithstanding the harm.

7 On Davis, at 175.

8 Consequently, not only is the fourth factor in  
9 defendants' favor, it raises a question whether there is even  
10 an actionable copyright claim here.

11 Plaintiffs have failed to demonstrate a  
12 likelihood of success on the merits of the copyright claim  
13 and consequently failed to demonstrate irreparable harm  
14 caused by the violation. They've also failed to establish  
15 that there are sufficiently serious questions going to the  
16 merits to make them a fair ground for litigation. Therefore,  
17 the preliminary injunction based on the alleged copyright  
18 violations is denied.

19 Moving on, in order to establish a viable  
20 claim under section 43(a) of the Lanham Act, plaintiffs must  
21 show that the defendants (1) made false or misleading  
22 representations; (2) for goods; (3), in interstate commerce;  
23 (4) in commercial advertising or promotion; (5) about a  
24 material facet of plaintiffs' product, (6) that caused damage  
25 to plaintiffs. Conmed Corporation versus Erbe Electromedizin

NXIVM v THE ROSS INSTITUTE

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1 GmbH, 129 F.2d -- 129 F.Supp.2d 461, at 470. Although  
2 plaintiffs point to some inaccuracies in Hochman's report,  
3 they hardly rise to the level of false or misleading  
4 representations about a material facet of plaintiffs'  
5 product.

6 Further, assuming that material  
7 misrepresentations were made, there's no demonstration that  
8 they occurred in commercial advertising or promotion.  
9 Commercial advertising or promotion under the Lanham Act is  
10 defined as: (1) commercial speech; (2) made by a defendant  
11 who was in commercial competition with the plaintiff; (3) for  
12 the purpose of influencing consumers to buy the defendant's  
13 good or services; and (4) disseminated sufficiently to the  
14 relevant purchasing public to constitute advertising or  
15 promotion within that industry. Gordon & Breach Science  
16 Publishers SA versus American Institute of Physics, 859  
17 F.Supp. 1521, at 1535 and 1536.

18 While the Second Circuit has not expressly  
19 adopted the second element, it has adopted the first, third  
20 and fourth elements of this standard. See Fashion Boutique  
21 of Short Hills, Incorporated versus Fendi USA Incorporated,  
22 314 F.3d 48, at page 58. Other circuit courts have adopted  
23 all four elements, including the competition requirement.  
24 See Proctor & Gamble Company versus Haugen, 222 F.3d 1262, at  
25 1273 and 1274; that's the Tenth Circuit; Coastal Abstracts

NXIVM v THE ROSS INSTITUTE

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1 Service Incorporated versus First American Title Insurance  
2 Company, 173 F.3d 725, at 735; that's the Nine Circuit;  
3 Seven-Up Company versus Coca Cola Company, 86 F.3d 1379, at  
4 1384. The Supreme Court has stated that, quote, the Lanham  
5 Act was intended to make actionable the deceptive and  
6 misleading use of marks and to protect persons engaged in  
7 commerce against unfair competition, close quote. Two Pecos  
8 Incorporated versus Taco Cabana, 505 U.S. 763, at 767, 768.

9 Plaintiffs were not in competition with any of  
10 the defendants. Further, there's no possibility of consumer  
11 confusion as to the origin or sponsorship of defendants'  
12 goods or services. Virgin Enterprises Limited versus Nawab,  
13 335 F.3d 141, at 146. Dr. Hochman's article criticized the  
14 plaintiffs' courses, so any consumer seeking services from  
15 Hochman or Ross would not be confused that ESP somehow  
16 sponsored them. Stephanie Franco's article mentioned nothing  
17 of ESP. There is no demonstration of a likelihood of success  
18 against the defendants on the Lanham Act claims.

19 Further, the defendants have raised a First  
20 Amendment defense to their speech. Offending commercial  
21 speech which violates the Lanham Act does not enjoy First  
22 Amendment protection, however, if the speech does not violate  
23 the Lanham Act, it may be protected by the First Amendment.  
24 See Taubman Company versus Webfeats, 319 F.3d 770, at 774,  
25 775. From the allegations and arguments, it's clear that the

NXIVM v THE ROSS INSTITUTE

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1 essence of plaintiffs' complaint is that they're being harmed  
2 by the conclusion that they're a cult. This opinion is not a  
3 enjoinable absent extraordinary circumstances, which is not  
4 present here. See Metropolitan Opera Association versus  
5 Local 100, Hotel Employees and Restaurant Employees  
6 International Union, 239 F.3d 172, at 176. An injunction  
7 which may impose a prior restraint on speech is strongly  
8 disfavored. See Metropolitan Opera Association, at 176.  
9 Therefore, even assuming plaintiffs could establish  
10 irreparable harm and sufficiently serious questions going to  
11 the merits on this claim, the balance of hardships weigh in  
12 favor of the defendant. The preliminary injunction is denied  
13 on the Lanham Act.

14 Finally, plaintiffs seek an injunction based  
15 upon the alleged breach of the confidentiality clause  
16 contained in Stephanie's Franco's course application.  
17 Assuming without deciding that the boiler plate wording is a  
18 binding confidentiality agreement, the asserted First  
19 Amendment defense would prevent the Court from issuing an  
20 injunction of the scope requested by the plaintiffs. The  
21 plaintiffs have not demonstrated that they've suffered or  
22 will suffer irreparable harm caused by the asserted breach.  
23 Accepting plaintiffs' vague allegations of harm as true, they  
24 indicate that their business is suffering because they've  
25 been labeled as a cult, not because clients or sponsors are

NXIVM v THE ROSS INSTITUTE

13

1 flocking to some other success program or because clients  
2 feel they no longer need the ESP program and instead can get  
3 the same information from Ross' website.

4           While the clause in the application might  
5 prevent Miss Franco from giving someone else the course  
6 materials, it is doubtful that the clause could legally  
7 prevent Miss Franco from expressing an opinion. Therefore,  
8 even assuming that there existed some sort of conspiracy  
9 between Franco and the other defendants, which appears  
10 doubtful on this record, there's no demonstration that the  
11 breach of the confidentiality clause is causing the asserted  
12 harm. Rather, that harm, if it is occurring, appears to be  
13 caused by the various defendants' expression of opinion. The  
14 Court will not enjoin that opinion.

15           On the other hand, the clause does seemingly  
16 protect against course participants disclosing trade secrets  
17 which, once disclosed to a competitor, could constitute  
18 irreparable harm. See Worldwide Sport Nutritional  
19 Supplements, Inc. versus Five Star Brands LLC, 80 F.Supp.2d  
20 25, at page 33; see Softel Inc. versus Dragon Medical and  
21 Scientific Communications Inc., 118 F.3d 955, at 968, cert.  
22 denied, 523 U.S. While there's no indication that a  
23 disclosure to a competitor has occurred, Miss Franco did  
24 seemingly agree not to transmit the course materials to  
25 anyone. In order to maintain the status quo pending this

NXIVM v THE ROSS INSTITUTE

14

1 litigation, she's enjoined from transmitting the materials to  
2 anyone other than her attorneys and persons retained by them  
3 in connection with these suits. And in addition, the  
4 affidavit filed with the Court containing the bulk of the  
5 course materials is hereby ordered sealed.

6 The other defendants who are not parties to  
7 the alleged contract are not enjoined in this manner, but  
8 they should be on notice that if they divulge plaintiffs'  
9 materials in a fashion that would constitute the elements of  
10 a common law misappropriation of trade secrets claim, the  
11 Court will entertain another application for preliminary  
12 injunction.

13 In conclusion, the Court finds no basis to  
14 issue a preliminary injunction other than the limited  
15 injunction preventing Miss Franco from disclosing the course  
16 materials to anyone other than her attorneys. In all other  
17 respects, plaintiffs' motions are denied.

18 The Court will issue its own order.

19 Thank you for interesting arguments on both  
20 sides.

21 MR. SYLVESTER: Thank you, your Honor.

22 MR. LUIBRAND: Will the sealing order be a  
23 separate order or will it be part --

24 THE COURT: It will be a part of the order  
25 that I'm going to issue.

NXIVM v THE ROSS INSTITUTE

15

1 MR. LUIBRAND: All right.

2 THE COURT: Does it have to be separate?

3 MR. LUIBRAND: Well, I don't know. I just --  
4 I'm asking the question.

5 THE COURT: No.

6 MR. LUIBRAND: It's considered sealed  
7 effective immediately?

8 THE COURT: Effective immediately.

9 MR. OLSEN: Your Honor, with respect to the  
10 sealing order, just so I can clarify that, you are indicating  
11 that whatever is on the website is affected by that?

12 THE COURT: Did you hear me say anything about  
13 that?

14 MR. OLSEN: I did not. Just clarifying that,  
15 your Honor.

16 THE COURT: Well, you don't have to clarify it  
17 because you didn't hear it.

18 MR. OLSEN: All right. Thank you, your Honor.

19 (Court adjourned at 11:50 AM.)

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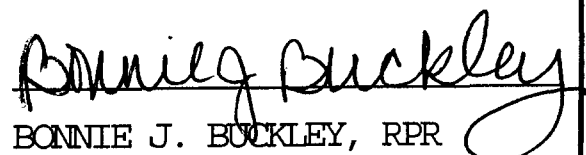
25

NXIVM v THE ROSS INSTITUTE

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## C E R T I F I C A T I O N

I, BONNIE J. BUCKLEY, RPR, Official Court Reporter in and for the United States District Court, Northern District of New York, do hereby certify that I attended at the time and place set forth in the heading hereof; that I did make a stenographic record of the proceedings held in this matter and caused the same to be transcribed; that the foregoing is a true and correct transcript of the same and whole thereof.

  
BONNIE J. BUCKLEY, RPR  
Official Court Reporter

DATED: SEPTEMBER 11, 2003

UNITED STATES DISTRICT COURT REPORTER - NDNY  
BONNIE J. BUCKLEY, RPR



# **EXHIBIT D**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT  
N.D. OF N.Y.  
FILED

SEP 09 2003

LAWRENCE K. BAERMAN, CLERK  
ALBANY

NXIVM CORPORATION, f/k/a  
Executive Success Programs, Inc.;  
and FIRST PRINCIPLES, INC.

Plaintiffs,

-against-

1: 03-CV-976  
(Lead Case)

THE ROSS INSTITUTE; RICK ROSS  
a/k/a "Ricky Ross"; JOHN HOCHMAN;  
and STEPHANIE FRANCO,

Defendants

NXIVM CORPORATION, f/k/a  
Executive Success Programs, Inc.;  
and FIRST PRINCIPLES, INC.

Plaintiffs,

-against-

03-CV-1051  
(Member case)

THE ROSS INSTITUTE; RICK ROSS  
a/k/a "Ricky Ross"; PAUL R.  
MARTIN, PH.D.; WELLSRING  
RETREAT, INC.; and  
STEPHANIE FRANCO,

Defendants

ORDER

McAvoy, D.J.:

For the reasons set forth from the bench on September 8, 2003,  
plaintiffs' motions for preliminary injunctions in the above-  
captioned cases are **granted in part and denied in part**. It is

hereby

**ORDERED** that cases 03-CV-976 and 03-CV-1051 are **consolidated** pursuant to Federal Rule of Civil Procedure 42(a), with 03-CV-976 serving as the lead case; and it is further

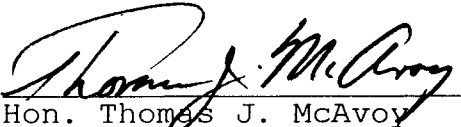
**ORDERED, ADJUDGED AND DECREED** that pending the final disposition of the actions against her, or until further order of this Court, defendant Stephanie Franco is **enjoined** from transmitting Plaintiffs' course materials to anyone other than her attorneys and persons retained by them in connection with these suits; and it is further

**ORDERED** that the Clerk of the Court, or his designee, is directed to detach the following two exhibits from the affidavits to which they are attached and to file the exhibits separately **under seal**: Exhibit A to Stephanie Franco's August 21, 2003 Supplemental Affidavit filed in 03-CV-976 (dkt. # 29); and Exhibit C to Stephanie Franco's September 2, 2003 Affidavit filed in 03-CV-1051 (dkt # 14). The sealing order does not pertain to the affidavits themselves, or the other exhibits attached thereto; and it is further

**ORDERED**, that plaintiffs' motions are, in all other respects, **denied**.

**IT IS SO ORDERED**

DATED: *Sept. 9, 2003*

  
Hon. Thomas J. McAvoy  
U.S. District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT  
N.D. OF N.Y.  
FILED

SEP 09 2003

LAWRENCE K. BAERMAN, CLERK  
ALBANY

NXIVM CORPORATION, f/k/a  
Executive Success Programs, Inc.;  
and FIRST PRINCIPLES, INC.

Plaintiffs,

-against-

1: 03-CV-976  
(Lead Case)

THE ROSS INSTITUTE; RICK ROSS  
a/k/a "Ricky Ross"; JOHN HOCHMAN;  
and STEPHANIE FRANCO,

Defendants

NXIVM CORPORATION, f/k/a  
Executive Success Programs, Inc.;  
and FIRST PRINCIPLES, INC.

Plaintiffs,

-against-

03-CV-1051  
(Member case)

THE ROSS INSTITUTE; RICK ROSS  
a/k/a "Ricky Ross"; PAUL R.  
MARTIN, PH.D.; WELLSPRING  
RETREAT, INC.; and  
STEPHANIE FRANCO,

Defendants

ORDER

McAvoy, D.J.:

For the reasons set forth from the bench on September 8, 2003,  
plaintiffs' motions for preliminary injunctions in the above-  
captioned cases are **granted in part and denied in part**. It is

hereby

**ORDERED** that cases 03-CV-976 and 03-CV-1051 are **consolidated** pursuant to Federal Rule of Civil Procedure 42(a), with 03-CV-976 serving as the lead case; and it is further


**ORDERED, ADJUDGED AND DECREED** that pending the final disposition of the actions against her, or until further order of this Court, defendant Stephanie Franco is **enjoined** from transmitting Plaintiffs' course materials to anyone other than her attorneys and persons retained by them in connection with these suits; and it is further

**ORDERED** that the Clerk of the Court, or his designee, is directed to detach the following two exhibits from the affidavits to which they are attached and to file the exhibits separately **under seal**: Exhibit A to Stephanie Franco's August 21, 2003 Supplemental Affidavit filed in 03-CV-976 (dkt. # 29); and Exhibit C to Stephanie Franco's September 2, 2003 Affidavit filed in 03-CV-1051 (dkt # 14). The sealing order does not pertain to the affidavits themselves, or the other exhibits attached thereto; and it is further

**ORDERED**, that plaintiffs' motions are, in all other respects, **denied**.

**IT IS SO ORDERED**

DATED: *Sept. 9, 2003*

  
Hon. Thomas J. McAvoy  
U.S. District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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NXIVM CORPORATION, Formerly Known as EXECUTIVE  
SUCCESS PROGRAMS, INC. and FIRST PRINCIPLES, INC.,

Plaintiffs,

-- against --

**AFFIDAVIT OF SERVICE**

THE ROSS INSTITUTE, RICK ROSS a/k/a  
"RICKY ROSS", JOHN HOCKMAN and  
STEPHANIE FRANCO,

**Civil Action No. 03-CV-0976  
(LEAD CASE)  
(TJM / DRH)**

Defendants.

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NXIVM CORPORATION, f/k/a EXECUTIVE SUCCESS  
PROGRAMS, INC. and FIRST PRINCIPLES, INC.,

Plaintiffs,

**Civil Action No. 03-CV-1051  
(TJM / DRH)**

-- against --

THE ROSS INSTITUTE, RICK ROSS a/k/a  
"RICKY ROSS", and PAUL R. MARTIN, PH.D.,  
WELLSPRING RETREAT, INC. and STEPHANIE  
FRANCO,

Defendants.

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STATE OF NEW YORK     )  
COUNTY OF ALBANY     ) ss:

**ROSALYN SCHWARTZBERG**, being duly sworn, deposes and says he is over the age of 18 years old and that he is not a party to the within action; that on the 9<sup>th</sup> day of October, 2003, he served the **Defendant The Ross Institute, Rick Ross, Paul R. Martin, PH.D. and Wellspring Retreat, Inc.'s Notice of Motion for Summary Judgment with Affidavit of in Support; Memorandum of Law and Statement of Material Fact Not in Dispute Pursuant to Local Rule 7.1(a)(3)** upon the following persons in the following manner:

Kevin A. Luibrand, Esq.  
Tobin and Dempf, LLP  
33 Elk Street  
Albany, New York 12207

Arlen L. Olsen, Esq.  
Schmeiser, Olsen & Watts, LLP  
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Linda B. Johnson, Esq.  
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via regular first-class mail by depositing a true and correct copy of the same properly enclosed in a post-paid wrapper in the Official Depository maintained and exclusively controlled by the United States Post Office at 563 New Scotland Avenue, Albany, New York, directed to said persons at said address, that being the last known address in the state designated for that purpose upon the last papers served in this action or the places where the above then resided or kept offices, according to the best information which can be conveniently obtained.

  
ROSALYN SCHWARTZBERG

Sworn to before me this  
9<sup>th</sup> day of October, 2003.

  
Notary Public

ANNE ASCENZI  
Notary Public, State of New York  
Qualified in Albany County  
Reg. No. 4777770  
Commission Expires 6/30/06